AGENDA
CODE ENFORCEMENT & APPEALS BOARD HEARING
OCTOBER 3, 2019
5:30 PM
CITY HALL COMMISSION CHAMBERS
204 ASH STREET
FERNANDINA BEACH, FL 32034

1. CALL TO ORDER / ROLL CALL / DETERMINATION OF A QUORUM

2. APPROVAL OF MINUTES

2.1 The minutes from August 1, 2019, are presented for approval.

3. OLD BUSINESS

3.1 **ELVIRA I. NOWLIN, 407 S. 13TH TERRACE, CASE 18-00094.** Violation(s) of the City of Fernandina Beach Code of Ordinances exist: Section 42-116 (a) Cleaning of lots, maintenance of structures. *Property owner requests a reduction in fines.*

3.2 **CECILIA DAVIS-TAYLOR, 112 SOUTH 9TH STREET, CASE 2019-0073.** Violation(s) of the City of Fernandina Beach Code of Ordinances exist: 42-116 Duty to Maintain Property. *Property owner and Code Enforcement to provide update.*

4. NEW BUSINESS

4.1 **JORDAN WILLIE E. SMITH EST C/O EMILY MCDONALD, 102 N. 10TH STREET, CASE 2019-0278.** Violation(s) of the City of Fernandina Beach Code of Ordinances exist: Section 42-116 Duty to Maintain Property. *Requesting Board determination of the case.*

4.2 **WILLIAM WEBB, 2004 HIGHLAND DRIVE, CASE 2019-0292**. Violation(s) of the City of Fernandina Beach Code of Ordinances exist: Section 42-117 Exterior Structure (Maintenance). *Requesting Board determination of the case.*

4.3 **DEXTER & REGINA N. RAINEY, 1002 CEDAR STREET, CASE 2019-0355**. Violation(s) of the City of Fernandina Beach Code of Ordinances exist: 42-173, Wrecked or inoperable vehicles in private property declared a nuisance and prohibited. *Requesting Board determination of the case.*

5. BOARD BUSINESS

5.1 **CODE AMENDMENT - CODE ENFORCEMENT AND APPEALS BOARD LIENS -** ORDINANCE 2019-23 *City Attorney will provide an update on a code amendment affecting the Board.*

6. ADJOURNMENT

Quasi-Judicial – Denotes that the item must be conducted as a Quasi-Judicial hearing in accordance with City Commission established procedure and Florida Statutes.

All members of the public are invited to be present and be heard. Non-English speaking individuals may request a language or sign interpreter at least ten (10) working days prior to this meeting. Persons with disabilities requiring accommodations in order to participate should contact the City Clerk at (904) 310 - 3115 or TTY/TDD 711 (for the hearing or speech impaired).

For information regarding this matter, please contact the Community Development Department (904) 310-3135. If any person decides to appeal any decision made by the Code Enforcement & Appeals Board with respect to any matter considered at such meeting he/she will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be made.

1. Call to Order/ Roll Call/Determination of Quorum – The meeting was called to order at 5:32 pm.

Council Members Present

Chair Buddy Boyd
Marlene Chapman
Gail Shults
Cynthia Crow
Henry Byrd
Nicole Kresse

Council Members Absent

Vice Chair Adam Kaufman

Others Present

Tammi E. Bach, City Attorney
Katie Newton, Recording Secretary
George Wells, Code Enforcement Officer
Michelle Forstrom, Code Enforcement Director

2. Approval of Minutes – According to the agenda support documents, the Minutes for the June 27, 2019, Regular Hearing were presented for approval. **A motion was made by Member Chapman, seconded by Member Shults, to approve the Minutes. Vote upon passage of the motion was taken by voice vote being all ayes, carried.**

Chair Boyd asked for any changes to the agenda, and Items 4.3 and 4.6 were removed. He explained the hearing process to the audience, and City Attorney Bach explained the quasi judicial procedures and the appeal hearing process.

Member Byrd disclosed that he was employed previously at Westrock and is receiving a pension, and wanted to know if he should recuse himself. City Attorney Bach advised that he did not have to recuse himself.

Ms. Newton swore in witnesses.

3. Old Business

3.1 NEIL T. DOUGLAS & LISA A. MOHN, 1725 LISA AVE, CASE 18-00004. *Violation(s) of the City of Fernandina Beach Code of Ordinances exist: 42-116(B) Cleaning of Lots, Maintenance of Structures; Section 42-173 Wrecked or inoperable motor vehicles on private property declared a nuisance and prohibited. City staff to provide update.*

Chair Boyd read the case. Mr. Wells presented on behalf of the City. He reports that Mr. Douglas is now in compliance and the case is closed.

3.2 CECILIA DAVIS-TAYLOR, 112 S. 9TH STREET, CASE 2019-0073. Violation(s) of the City of Fernandina Beach Code of Ordinances exist: Section 42-116 Duty to Maintain Property, 42-117 Exterior Structure (Maintenance); and of the Land Development Code 8.03.07 Demolition by neglect. *Requesting Board determination of the case.*

Chair Boyd read the case. Mr. Wells presented on behalf of the City. He submitted a letter from the Historic District Planner, Sal Cumella, requesting a continuance until November for the violations related to maintenance of structures and demolition by neglect. Mr. Wells addressed 42-116 and showed photographs. He read the ordinance and explained how the photographs showed overgrowth infringing on the right of way. Staff doesn't need her to cut back to the bare chain link fence – it's the excessive growth and weeds that are the problem. He stated that the property owner has cleared a lot in the center of the property and commends her for that; but the overgrowth along the fence is still out of compliance.

Michelle Forstrom was called as a witness. Mr. Wells asked her whether she had inspected the property and she had. She described the vegetation and the need for it to be cut back. She believes it is in violation of the City ordinance and agrees with Mr. Wells's presentation. Member Byrd asked about resources that might be available and the reason why this was postponed. Ms. Forstrom replied that a Commissioner had taken that responsibility and she did not have any further information. Mr. Wells added that a COA was required to handle the shed issue and the HDC would need to take it up. Member Chapman asked about the height of the fence in relation to the weeds. Ms. Forstrom said the fence was about 4 feet

and the weeds were growing on top of that. Member Chapmans and Crow wanted clarification on whose responsibility it was to clear the vegetation that was encroaching on right of way. The City has the right to clear to the fence line but the code states that the property owner is responsible for the overgrowth.

Dave Holley, City Arborist, explained that he went to the site today and no one was home. He said they had a sign stating it was a wildlife sanctuary and understands they want to keep natural vegetation. He stated that he saw vines there are being supported by the bushes and trees underneath. The vines may have killed the trees underneath already. The vines should be trimmed off and cleaned. Some vines were native but some were invasive species. There were saplings that probably could be thinned out but they are fine. Vines are growing over bushes and on power lines and up oaks and that is a concern.

Member Kresse wanted clarification on whether this was in violation based on the vines alone. Mr. Wells stated that the vines and excessive weeds in the corners were both in violation of 42-116. Mr. Holley explained that sword fern is an invasive species and present on the property. Member Crow explained that the Board had already found them in violation and they needed to discuss fines or whether the property was in compliance.

Staff recommends $50 per day for the fine for 42-116.

Ms. Davis Taylor, property owner, said that it was her impression that the Board wanted to have her remove all the vegetation from the fencing. After reading the code, she is requesting exceptions to keep her vegetative screen on the fencing to keep her native plants. She stated that she has cleared a large portion of the interior of her property. She and Mr. Wells had discussed the encroachment into the City property and she did not like the idea of the bush hog. She was concerned that City staff would strip the vegetation. Member Crow explained the City has the right to cut back vegetation that encroaches on right of way but it the property owners originating property that is responsible for the vines.

Member Kresse wanted to make sure Ms. Taylor understood that the vines and weeds are the issue. Mr.Wells said that she needs to cut the vines back so it does not encroach on the right of way and not so high. Ms. Davis described an email from a neighbor that supported the view of the vegetation on the fence. Member Crow asked whether Ms. Davis had received assistance and she said it did not come through.

Chair Boyd asked what her plan was to satisfy code enforcement. She said that she planned to follow the staff recommendations. He asked for a timeline. She said that she had surgery in a couple weeks and would not have been able to hire someone. Member Chapman asked about the list that was given with agencies and Ms. Davis said the list was not able to help.

Tammi Kosack, 322 N 3rd Street, admires the property and offers her landscaping services if they postpone fees until the next meeting.

Peggy Lehosit, 1016 San Fernando Street, noticed the sign on her fence to certify as a wildlife habitat. Weeds could be considered native plants and she is doing a service to have native plants. Wants to help with project.

Christopher Page, Williams House owner, across the street, doesn't want a bush hog to tear up greenery he admires.

Chair Boyd asked for board discussion.

Member Kresse asked staff would be okay to withhold fines until November. Mr. Wells said is on board as long as they could see progress. There was discussion of regular updates. Chair Boyd wants to set a deadline.

Member Shults wants give them time.

Mr. Wells asked Ms. Taylor asked if she would accept the help offered by her neighbors. She said yes.

A motion was made by Member Crow, seconded by Member Chapman, to continue the violations on 42-117 Exterior Structure (Maintenance); and of the Land Development Code 8.03.07 Demolition By Neglect per Mr. Cumella's request; and to impose administrative fees and fines of $50.00 per day to begin November 6, if the property was not in compliance with 42-116 by the November hearing. A vote was taken and passed, all in favor.

4. New Business

4.1 APPEAL - ALLEN & GRAHAM, INC. / WEST ROCK, 600 NORTH 8TH STREET, PERMITS BLDC 2019-0014, BLDC 2019-0015, BLDC 2019-0041. *Property owner appeal of building official decision to impose after-the-fact permit fees.*

Chair Boyd read the case. City Attorney Bach clarified that there are 6 voting members tonight, and the City code requires affirmative vote of 5 members to approve the appeal. The denial of appeal/upholding building official's decision is a simple majority. After the fact permit fees are allowed to quadruple fines.

Asa Gillette spoke on behalf of the contractor and owner appealing the decision. He explained that his business is very familiar with the permitting process and gave examples. He described Ordinance 97-4 which discusses certain exemptions the mills from inspections and plans reviews by the City but does not exempt permits.

Tom Keenan, retired engineering manager at Westrock, summarized the history of permitting for industrial facilities. Ordinance 97-4 granted exemptions to Westrock and Rayonier from City plans review and inspections to building and structures in the permitting processes. There is not an exemption for business side. As a general practice, industry does not get permits from the local jurisdiction because of other regulations. City planning departments are not built to inspect industrial facilities. Starting in 1997, he would gather information for permits that were required to bring to the City, and building department told them they were exempt and did not need a permit. In 2016, there was an article in Newsleader summarizing Ordinance 97-4; and a month later another article came out with the City Manager stating permits would be required. They provided a timeline in the agenda packet. On March 5, 2018, Mr. Keenan met with Tony Perez, the building official at the time, and they discussed the current projects going on and what information and permits would be required. Mr. Perez required elevations and other floodplain information. They have been working with department to satisfy inspection and plan review requirements of the department.

Member Crow asked about things changing in September 2016 and clarification on the timeline. The issue at hand is for three permits, and some of the engineering information was sent to the City between the meeting with Mr. Perez and after he had left the City. Chair Boyd asked who was responsible to provide payment to the City for the permits – whether it was the contractor or Westrock. Mr. Keenan explained the contractor pays for it and Westrock pays them back. Chair Boyd asked about follow up and Mr. Keenan explained the process Westrock uses generally. Permit fees are significant. Common practice is once contractor selected, they pay the permit and Westrock reimburses them. Chair Boyd asked if the same process was used for all projects and Mr. Kennan replied yes.

Member Byrd asked if Westrock knew a permit was required, and Mr. Keenan said they knew they needed permit for these projects. Chair Boyd asked if, in the past, they had started projects without permits and obtained them during the construction process, and Mr. Keenan said they hadn't obtained permits prior to 2016 except for the business side like sign permits. Chair Boyd asked if there were inspections from City, and Mr. Keenan stated that Westrock uses private providers for that. Chair Boyd asked if inspectors ever checked that permit was in place. Mr. Keenan stated that the private inspector was documenting inspections. Member Crow asked if Westrock went through a similar process for permitting after the policy change in 2016? Mr. Keenan replied yes. Member Chapman wanted to know whether the private inspector knew permits needed to be picked up. Mr. Keenan stated that by agreement, the City was aware of the projects and provided input, and Westrock would do engineering and processes as they went and then provide it to the City while going through permitting process. Both the process and project took a year and were done concurrently; he stated that the building department was aware that was happening.

Member Byrd asked if having permits were not required was normal for industry, and Mr. Keenan replied yes. Member Byrd wanted to know whether, since permits were generally not required, would the inspector be looking for a permit? Mr. Keenan stated that it was not standard to look for a permit. Member Crow wanted to clarify if it was still not standard after 2016. Mr. Keenan stated that he knew they were going through the permitting process and they did. Member Crow asked if he knew change was coming, and Mr. Keenan said they did.

City Attorney Bach explained factual information she came across while preparing for this hearing. Building permits are required for all projects as far back as 1996. Building officials may have overlooked this in the past, but she could not speak to that one way or the other. In Fernandina Beach, the City does not have inspectors for industrial projects, so private providers used as inspectors. The Commission had rejected resolutions to exempt the mills from the permitting process.

Private providers are standard for plans and inspections, and the City's Ordinance 97-04 affirms this. Chair Boyd asked if permits have to be in place before commencement of work and City Attorney could not speak to that.

Mr. Keenan stated that Westrock had been engaged with the City since the projects began so he feels the fee being imposed is not appropriate. Member Shults asked if any of these was in in writing that no permits were required. Mr. Keenan stated that in early days, they went to get permits and were told to go away. Member Kreese asked about the agreement regarding permit payments in contract with Allen and Graham.

Mr. Gillette spoke about the Eight Flags facility for FPU, prior to Lignotech, it was started without any permit. Mr. Perez contacted them to pull permits. At that time, they did an after the fact permit for that project because work had started and the mills were not used to having to get permits. There were no after the fact permit fees required for that. For industrial facilities, that was common practice for a permit to be issued after work started. One reason is that the fees are so large, it might be a while before contractor can actually pay to pick up the permit. Westrock was not trying to deceive the City, and disruptions in the building department staffing caused delays.

Art Barthlow, a private provider, was the plan reviewer on these jobs, starting March of 2018. Westrock submitted plans to City. Ms. Angie Lester asked Mr. Barthlow to come in after building inspector Jud Allen became ill to review plans in October 2018. He had finished the Westrock plan reviews, and then went to work for the City. Well into year, he was asked why Allen Graham had not picked up the permits for those projects. He didn't know. He stated that the inspector should have known better to certify work without a permit. The issue is that contractor did not pick up permit, when they knew there was a permit because they had signed the permit application. Mr. Barthlow was also concerned that the inspector signed off on the work without the permit. Chair Boyd asked if Mr. Barthlow thought the after the fact permit fees are excessive. Mr. Barthlow did not want to comment on that subject, but restated the contractor knew he was supposed to pick up the permits.

Eric Schmidt, Westrock Community Relations Manager, wants to make sure they know that were issues. There were retirements during that time and the email that said they were ready to be picked up did not make it to the right person. In January, Westrock still wasn't clear what the fee should be, so they were not sure how to pick up permits. The fee changed again in April. Between the City staff changes and the Westrock retirements, there was a lot of miscommunication. He believes that four times the fee is really punitive and not appropriate in this case. They paid the regular fee already. Chair Boyd asked what would be fair. Mr. Schmidt stated that a fee of the interest and administrative costs would be fair.

Member Chapman asked City Attorney Bach about the stopgap measures between wetlands and city property if the mills encroach on these areas. City Attorney Bach stated that that was a completely different issue and not relevant to this appeal.

Mr. Terry Cotter, deputy building official, passed out a section of the Florida Statutes, Chapter 489. He stated that the contractor was notified after the plans were signed off by reviewer and the permit was ready to be picked up. He was not working at the City at the time. In the building administrative code, it is okay to start work without a permit as long as there is something in writing stating that. Mr. Cotter cannot find anything in writing at this time. The contractor can do work until the first inspection if that has been agreed to. The building department never inspected any of the projects. Private providers are used, but they are supposed to give the building department notice before inspection. They are supposed to fill out an application that they are using a private provider. The building department never got notice for inspection or the results of inspections. Universal Engineering had no reports. He felt that they ignored the law.

Mr. Cotter went through the statutes he had distributed and explained some relevant passages to this case relating to authority and penalties for performing work without a building permit in effect. He stated that the contractor violated the statutes on three occasions. Chair Boyd wanted clarification on whether permit was needed prior to work started. Mr. Cotter stated he could not find documentation that it was agreed that they could start work up to first inspection, and that it was not correct that they could start work while working through the permitting process/ He highlighted the violation for not informing the local building department. He talked about rules for starting a local review board and he sent this case to the state construction industry board for a disciplinary hearing. He requests that this case be dropped by the CEAB and let the state board do his work.

Chair Boyd asked if Mr. Cotter assessed after the fact fees. Mr. Cotter stated that he did and followed state guidelines and Florida Statutes. This is not considered an after the fact permit fee, but it a fine. After the fact permit fees deal more with emergency work.

CA Bach wanted to know if Mr. Cotter was asking board to not rule on appeal. Mr. Cotter replied that the state licensing board has the authority to fine the contractor, and that Westrock was not the violator. City Attorney Bach stated that Westrock is responsible for paying permit fees because the City has applied penalties to property owner. She wanted Mr. Cotter to clarify who was expected to pay the fines, and whether the state licensing board would hear the case and assess their own penalties or will the city assess their fees? Mr. Cotter stated that Chapter 849 says it's the contractor's responsibility to pay the permit fees and he does not believe the owner is responsible. City Attorney Bach said that years later, if the City finds there was no permit, they go to the property owner. Member Crow stated that they pulled a permit, they just didn't pick it up, and that they paid the base fee already. Mr. Cotter stated that they only paid those fees because they had more work to do.

Chair Boyd wanted to know how the permits would be closed out. Mr. Cotter said they would and that the construction and licensing board would determine the fees. Member Crow asked if the state licensing board will address the fees and any disciplinary action? Mr. Cotter said they will. Member Byrd wanted to know why the CEAB was hearing the appeal if that was the case. City Attorney Bach stated that she was not told it was going before the state board. Chair Boyd wanted to know what would happen if the state board did not assess any penalties. Mr. Cotter stated that they have the final word. He apologized for not talking about the state board earlier. Member Byrd wanted to make sure the fees are in line with state standards, and said one of the fees was over $232,000. Mr. Cotter explained that the four times penalty applies to base fee only. Member Kresse wanted to know whether the fact permit fees was this correctly applied. Mr. Cotter stated that it was in the City fee schedule and in state statute. Chair Boyd clarified that the penalty is up to four times the base permit fee. City Attorney Bach wanted to clarify whether the penalty went against the contract, and that the state board would look at the fee and decide whether it was applicable. She also wanted to know whether Westrock was responsible or Allen and Graham. Mr. Cotter stated that a new contractor and owner are not responsible for contractor's mistake. Westrock would not be responsible for fees.

City Attorney Bach advised that the Board should take no action. Westrock appealed the case because they thought the fee applied to them. We can reset for another time if needed.

Mr. Clyde Davis, attorney, represents Westrock. He agrees with everything up to the point where the fee is applied to Westrock. He requests the CEAB sustain the Westrock appeal and allow the contractor Allen and Graham to go through state licensing board.

Member Crow does not want to sustain because she wanted to verify Mr. Cotter's statements. City Attorney Bach asked if the case been filed with state already, and Mr. Cotter replied yes. City Attorney Bach asked how long will it take and Mr. Cotter didn't think it would be more than six months.

City Attorney Bach recommended a motion to toll time so the appeal can be brought back to date certain in case Westrock is charged with this fee while that case is being heard by state board. Mr. Cotter stated he was confident Westrock would not get a bill – it would be the contractor. He said that the system he has with Westrock now is doing well.

A motion was made by Member Chapman, seconded by Member Kresse, to toll the time until December 31 to let the construction licensing board make a decision. A vote was taken and passed, all being in favor.

The Board took a brief recess at 8:12 p.m. and resumed the hearing at 8:20 p.m.

4.2 JESSUP PROPERTIES, 11 SOUTH 7TH STREET, CASE 2019-0175. Violation(s) of the City of Fernandina Beach Code of Ordinances exist: Section 42-117, Exterior Structure & Section 42-116 Duty to Maintain Property. *Requesting Board determination of the case.*

Chair Boyd read the case. Mr. Wells presented for the City and entered evidence into the record. The property is currently known as the Thompson House and Lulu's Restaurant. On April 24, he observed rotten wood and peeling paint, and an overgrown yard. All work to be done on this property needs an HDC Certificate Of Approval. The owner was given until June 20 to come into compliance. Mr. Wells met with the owner in October 2018 and they were excited to turn the house into a B&B. Work suddenly stopped and no word from owners for months, and phone numbers on file were disconnected. There were complaints that vagrants were staying there but he could not verify that. The community has complained because of location and this property is in its first phases of demolition by neglect. Staff recommends fine of $150 per day per violation and administrative fees.

Chair Boyd asked if there had been any communication with the owners. Mr. Wells stated phone numbers have been disconnected but a certified letter was returned with a signature from owner. Member Kresse asked if the HDC knew since this is historic house. Mr. Wells stated that the property owners haven't submitted applications for COAs. Member Kresse wanted to know how long it would take for a COA, and Ms. Forstrom replied that a COA has to be applied for by the private property owner. They have not been in contact. She thinks there is more going on but nothing has been recorded yet. If they were here then it wouldn't take that long because it's mostly staff approval items.

A motion was made by Member Chapman, seconded by Member Kresse, to find the property in violation of Code of Ordinances Section 42-116 Duty to Maintain Property and Section 42-117 Exterior Structure. A vote was taken and passed, all being in favor.

A motion was made by Member Kresse, seconded by Member Chapman, to assess administrative fees and fines of $75 per day beginning August 16 if not in compliance with 42-116 by that date; and fines of $75 per day beginning 42-117 beginning November 1 if not in compliance. A vote was taken and passed, all being in favor.

4.3 NANCY STARR, 404 SOUTH 11TH STREET, CASE 2019-0195. Violation(s) of the City of Fernandina Beach Code of Ordinances exist: 42-173 Wrecked or inoperable motor vehicles on private property declared a nuisance and prohibited. *Requesting Board determination of the case.*

This item was removed from the agenda.

4.4 WILLIE & PAULA EVANS, 810 SOUTH 11TH STREET, CASE 2019-0197. Violation(s) of the City of Fernandina Beach Code of Ordinances exist: Section 42-173 Wrecked or inoperable motor vehicles on private property declared a nuisance and prohibited & Section 42-116 Duty to maintain property. *Requesting Board determination of the case.*

Chair Boyd read the case. Mr. Wells presented for the City and entered evidence into the record. It this time, 42-116 is in compliance, but as far as 42-173 is concerned, the van still has flat tires. He hand delivered and posted notices. The owner has not made any contact. Staff recommends a fine of $50 per day and administrative fees.

Chair Boyd asked if posting was acknowledged. Mr. Wells said posting was gone.

A motion was made by Member Kresse, seconded by Member Crow, to find the property in violation of Code of Ordinances Section 42-173 Wrecked or inoperable motor vehicles declared a nuisance and prohibited. A vote was taken and passed, all being in favor.

A motion was made by Member Kresse, seconded by Crow, to assess administrative fees and fines of $50 per day beginning August 16 if not in compliance. A vote was taken and passed, all being in favor.

4.5 MARY BOWMAN, 1622 HIGHLAND STREET, CASE 2019-0238. Violation(s) of the City of Fernandina Beach Code of Ordinances exist: Section 42-173 Wrecked or inoperable motor vehicles on private property declared a nuisance and prohibited. *Requesting Board determination of the case.*

Chair Boyd read the case. Mr. Wells presented for the City and entered evidence into the record. On a proactive sweep, he saw the vehicle on jack stands. The property owner said it was to make it undriveable for a sibling. The owner admitted it was inoperable and has expired tags. The notice of violation letter was returned signed, and the property is still in violation. He has not been able to make further contact with the owner. Staff recommends a fine of $50 per day and administrative fees.

A motion was made by Member Chapman, seconded by Member Kresse, to find the property in violation of Code of Ordinances Section 42-173 Wrecked or inoperable motor vehicles declared a nuisance and prohibited. A vote was taken and passed, all being in favor.

A motion was made by Member Kresse, seconded by Member Crow, to assess administrative fees and fines of $50 per day beginning August 16 if not in compliance. A vote was taken and passed, all being in favor.

4.6 UNITED STATES OF AMERICA, 314 SOUTH 13TH STREET, CASE 2019-0270. Violation(s) of the City of Fernandina Beach Code of Ordinances exist: Section 42-116 Duty to Maintain Property. *Requesting Board determination of the case.*

This item was removed from the agenda.

5. Board Business

5.1 Reappointment of Members Crow and Kaufman.

A motion was made by Member Kresse, seconded by Member Byrd, to recommended reappointment of both members to the Commission. The motion passed by unanimous voice vote.

Member Byrd would like to have more information on the way that the building department and planning department interact with code enforcement. Ms. Forstrom agreed to put something on a future agenda.

6. Adjournment - There being no further business to come before the Code Enforcement and Appeals Board, the meeting was adjourned at 8:54 p.m.

_____ _____

Katie Newton, Recording Secretary **Carlton "Buddy" Boyd, Chair**

To: Michelle D. Forstrom,
I would like to be put
on the October 3rd code
enforcement and appeals
board agenda to request
a reduction in fees and fines

Thank you
9.17.19 E Moulin

RECEIVED

SEP 17 2019

CODE ENFORCEMENT
FERNANDINA BEACH, FLORIDA

City of Fernandina Beach

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER OF ENFORCEMENT

Date: September 7, 2018
Case Number: 18-00094

IN THE MATTER OF: Respondent Name: Elvira I. Nowlin
Respondent Address: 407 South 13th Terrace, Fernandina Beach, FL 32034

This case having come before the Code Enforcement & Appeals Board of the City of Fernandina Beach on September 6, 2018, a violation hearing having been held, and the Board having heard testimony, does hereby make the following finding of facts, and conclusions of law therefore imposing the following order and penalty:

SECTION 1 - FINDINGS OF FACT

1. The Respondent was properly served notice of these proceedings as required by law on August 22, 2018, and the Respondent was not present at the hearing.

2. The real property on which the violations occurred at 407 South 13th Terrace, Fernandina Beach, FL and a brief legal description being **BLOCK 241 LOTS 61 & 62 IN OR 630 PG 888 CITY OF FDNA BEACH, Fernandina Beach, FL 32034.**

3. The Respondent is the owner of record of the aforementioned real property.

4. The Respondent violated sections of the Fernandina Beach Code of Ordinances: **42-116(a) Cleaning of lots, maintenance of structures.**

SECTION 2 - CONCLUSION OF LAW & IMPOSITION OF FINE

1. Based on the foregoing findings of fact, the Board voted to find the property in violation of Section 42-116(a), to collect administrative fees, and if not brought into compliance by September 16, 2018, assess fines of $50.00 per day beginning September 17, until brought into compliance.

2. The City of Fernandina Beach shall record a certified copy of this order in the public records and this Order shall constitute a lien against the real property on which the violations exist and upon any other real or personal property owned by the Respondent if fines are not paid within thirty (30) days.

3. If the lien remains unpaid for a period of three (3) months from the date of the filing of the lien, the City of Fernandina Beach may foreclose on the lien or sue to recover a money judgment for the amount of the lien plus accrued interest.

SECTION 3 - CERTIFICATION OF VOTE

Done and ordered September 6, 2018 at the City of Fernandina Beach, Nassau County, Florida Code Enforcement & Appeals Board Hearing.

By: _____
Chair, Carlton "Buddy" Boyd

**Florida Statute 162.11 Appeals.—An aggrieved party, including the local governing body, may appeal a final administrative order of an enforcement board to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the enforcement board. An appeal shall be filed within 30 days of the execution of the order to be appealed.*

ADMINISTRATIVE FEES INCURRED FROM
407 S. 13th Terrace
AS OF 09/6/18
CODE CASE #18-00094

STAFF PERSONNEL OR ITEMS	# OF UNITS OR HOURS	PRICE OR RATE PER HOUR	TOTAL
Michelle Forstrom, Code Enforcement Manager	1.5	$23.13	$34.70
George Wells, Code Compliance Officers	6	$20.80	$124.80
Katie Newton, Board Secretary/Legal Assistant	1.5	$21.63	$32.45
Record Findings of Facts with the Clerk of Circuit Court of Nassau County	1	$10.00	$10.00
Certified letters mailed	1	$6.48	$6.48
First Class letters mailed	1	$0.48	$0.48

TOTAL ADMINISTRATIVE FEES DUE **$208.90**

***** TOTAL AMOUNT DUE MUST BE PAID IN FULL TO CLOSE THIS CASE AND AVOID A LIEN ON THIS PROPERTY***

FINES AND FEES INCURRED FROM
407 S 13TH TERRACE
AS OF
CODE CASE #18-00094

DATES	# OF DAYS	FINE PER DAY	TOTAL
9/16/18 - 9/30/18	15	$50.00	$750.00
10/1/18 - 10/31/18	31	$50.00	$1,550.00
11/1/18 - 11/30/18	30	$50.00	$1,500.00
12/1/18 - 12/31/18	31	$50.00	$1,550.00
1.1.19 - 1/31/19	31	$50.00	$1,550.00
2/1/19 - 2/28/19	28	$50.00	$1,400.00
3/1/19 - 3/31/19	31	$50.00	$1,550.00
4/1/19 - 4/30/19	30	$50.00	$1,500.00
5/1/19 - 5/31/19	31	$50.00	$1,550.00
6/1/19 - 6/30/19	30	$50.00	$1,500.00
7/1/19 - 7/31/19	31	$50.00	$1,550.00
8/1/19 - 8/31/19	31	$50.00	$1,550.00
9/1/19 - 9/17/19	17	$50.00	$850.00
			$0.00
			$0.00

TOTAL FINES	**$18,350.00**
TOTAL FEES	**$208.90**
GRAND TOTAL DUE AS OF	**$18,558.90**

***** TOTAL AMOUNT DUE MUST BE PAID IN FULL TO CLOSE THIS CASE AND AVOID A LIEN ON THIS PROPERTY *****

STAFF REPORT
Case 18-00094
City of Fernandina Beach Code Enforcement & Appeals Board
September 6, 2018

Violation Information

Owner	Elvira I. Nowlin 407 S. 13th Terrace Fernandina Beach, Florida 32034
Violation-Repeat	City of Fernandina Beach – Code of Ordinances, Section 42-116 (A) Cleaning of lots; Maintenance of Structures
Location:	407 S. 13th Terrace, Fernandina Beach, Florida 32034

Summary and Background Information

July 26, 2018, During a proactive sweep I observed junk and debris in the front yard and driveway area. I left a door hanger giving ten (10) days to correct the violation. I recorded photographs.

August 6, 2018, I conducted a second inspection of the property where there was no change.

August 7, 2018, I mailed a NOV/NOH letter via certified mail to the owner of the property. The signature card was not returned with an authorized signature on it.

August 22, 2018, I hand delivered and posted a copy of the NOV/NOH letter on the front door. I recorded photographs.

August 29, 2018, A field visit to the property to check the status of property showed junk and debris still present in the front yard and driveway.

Conclusion;

We have not had any correspondence from the owner regarding this case.

Recommendation

The City recommends a fine of $ 50.00 per day for the violation, along with administration fees incurred.

Submitted by:

George Wells

George Wells
Code Compliance Officer

CITY OF FERNANDINA BEACH **George Wells**
Code Enforcement Department Code Compliance Officer

CODE ENFORCEMENT & APPEALS BOARD
NOTICE OF VIOLATION/NOTICE OF HEARING

August 22, 2018 Case Number: 18-00094

Posted Notice On Front Door

IN THE MATTER OF:

Elvira I Nowlin
407 S. 13th Terrace
Fernandina Beach, Florida, 32034

PREMISES: 407 S. 13th Terrace, Fernandina Beach, FL 32034

The brief legal description of the real property upon which this violation occurred is: **BLOCK 241 LOTS 61 & 62 IN OR 630 PG 888 CITY OF FDNA BEACH, FERNANDINA BEACH, FL 32034.**

Parcel # 00-00-31-1800-0241-0610

The Code Enforcement office of the City of Fernandina Beach has previously notified you of alleged violation(s) of the City of Fernandina Beach Code of Ordinances and contends that the following violation(s) exist: **42-116 (A & B) Cleaning of lots; Maintenance of Structures.** (These can be found on the City's website: www.fbfl.us/code). This letter specifically addresses the appliances on the front driveway and the headboard lying against the front bushes and any other junk and debris that needs to be removed or stored properly.

Therefore, you are hereby directed to remedy and discontinue the problems by: removing or properly storing all junk, trash, and debris in the front yard area by September 1, 2018 ten (10) days from the date of this notice, and if this office is not notified of compliance by you, this department will refer this matter to the Code Enforcement & Appeals Board for legal action at the date and time listed below.

DATE:	September 6, 2018
TIME:	5:30 p.m.
LOCATION:	City Commission Chambers, 204 Ash Street Fernandina Beach, Florida 32034

YOU HAVE THE RIGHT to appear before the Board at that time to answer and defend the allegations that you have violated the above cited provision(s) of the Code of Ordinances.

If the Board finds that you are in violation, they will consider all appropriate actions required to bring the property into compliance, which may include, but is not limited the recovery of fees, and fines which may be imposed for the duration of the non-compliance (NOT TO EXCEED $250.00 per day, per violation).

Please be advised that the Rules of the Code Enforcement & Appeals Board and the Code of Ordinances of the City of Fernandina Beach govern the procedures of the Board.

PLEASE GOVERN YOUR SELF ACCORDINGLY.

If you have any questions, please feel free to contact me (please see my attached business card for contact information).

George Wells
Code Compliance Officer

Hearing impaired or non-English speaking individuals may request a language or sign interpreter at least (10) ten working days prior to this hearing. Please contact the City Clerk's office at (904) 310-3115.

AFFIDAVIT OF SERVICE

State of Florida
County of Nassau

Code Enforcement Case Number: 18-00094

I, George Wells, being first duly sworn, depose and state as follows:

1. That I am an employee of the City of Fernandina Beach, Code Enforcement;

2. That part of my duties include posting Notice of Violation/Notice of Hearing letters, and other correspondence; and

3. That on the 22nd Day of August, 2018, at 11:17 A.M., I posted the 2nd Notice of Violation/Notice of Hearing letter for **Case 18-00094, Nowlin, Elvira I, 407 South 13th Terrace, Fernandina Beach, FL 32034** to Elvira I Nowlin, 407 S. 13th Terrace, Fernandina Beach, FL 32034.

FURTHER AFFIANT SAYETH NAUGHT.

Signature: George Wells

George Wells
(Printed name of Code Compliance Officer)

Subscribed and sworn to before me, a notary public in and for the State of Florida, this 22nd day of August, 2018.

(SEAL) HARRIET DAVIS
MY COMMISSION # GG86124
EXPIRES: March 22, 2021

Signature: Harriet Davis

Harriet Davis
(Printed name of Notary)

CITY OF FERNANDINA BEACH **George Wells**
Code Enforcement Department Code Compliance Officer

CODE ENFORCEMENT & APPEALS BOARD
NOTICE OF VIOLATION/NOTICE OF HEARING

August 7, 2018 Case Number: 18-00094

Cert. #:7014 0150 0002 0092 6670

IN THE MATTER OF:

Elvira I Nowlin
407 S. 13th Terrace
Fernandina Beach, Florida, 32034

PREMISES: 407 S. 13th Terrace, Fernandina Beach, FL 32034

The brief legal description of the real property upon which this violation occurred is: **BLOCK 241 LOTS 61 & 62 IN OR 630 PG 888 CITY OF FDNA BEACH, FERNANDINA BEACH, FL 32034.**

Parcel # 00-00-31-1800-0241-0610

The Code Enforcement office of the City of Fernandina Beach has previously notified you of alleged violation(s) of the City of Fernandina Beach Code of Ordinances and contends that the following violation(s) exist: **42-116 (A & B) Cleaning of lots; Maintenance of Structures.** (These can be found on the City's website: www.fbfl.us/code). This letter specifically addresses the dryer on the front driveway and the headboard lying against the front bushes and any other junk and debris that needs to be removed or stored properly.

Therefore, you are hereby directed to remedy and discontinue the problems by: removing or properly storing all junk, trash, and debris in the front yard area by August 17, 2018 ten (10) days from the date of this notice, and if this office is not notified of compliance by you, this department will refer this matter to the Code Enforcement & Appeals Board for legal action at the date and time listed below.

DATE:	September 6, 2018
TIME:	5:30 p.m.
LOCATION:	City Commission Chambers, 204 Ash Street Fernandina Beach, Florida 32034

YOU HAVE THE RIGHT to appear before the Board at that time to answer and defend the allegations that you have violated the above cited provision(s) of the Code of Ordinances.

If the Board finds that you are in violation, they will consider all appropriate actions required to bring the property into compliance, which may include, but is not limited the recovery of fees, and fines which may be imposed for the duration of the non-compliance (NOT TO EXCEED $250.00 per day, per violation).

Please be advised that the Rules of the Code Enforcement & Appeals Board and the Code of Ordinances of the City of Fernandina Beach govern the procedures of the Board.

PLEASE GOVERN YOUR SELF ACCORDINGLY.

If you have any questions, please feel free to contact me (please see my attached business card for contact information).

George Wells
Code Compliance Officer

Hearing impaired or non-English speaking individuals may request a language or sign interpreter at least (10) ten working days prior to this hearing. Please contact the City Clerk's office at (904) 310-3115.

WORKING FOR A SAFER COMMUNITY

CITY OF FERNANDINA BEACH
CODE ENFORCEMENT
204 Ash Street

(904) 310-3147

gwells@fbfl.org www.fbfl.us/Code

NOTICE OF VISIT

Address: 5 13th Terr.

Date: 7/26/18 Time: 2:15 AM / PM

THIS IS TO SERVE AS A WARNING THAT YOU MAY BE IN VIOLATION OF THE FOLLOWING CITY ORDINANCE(S):

REASON FOR VISIT:		CODE #
	Overgrowth of Yard or Vacant Lot Cut or remove all high grass & weeds	42-116 (a)
X	Rubbish, Trash, Debris, Junk or Similar Items Remove or store in a proper receptacle	42-62 / 42-116 (a)
	Maintenance of Structure (s) Repair	42-116 (b)
	Recreational Vehicle, Boats, Trailers or Similar Vehicles Remove or store in a proper structure or in side or rear yard	7.01.05 LDC
	Sign (s) Remove, apply for permit, other	5-05.___ LDC
	No Visible Address Numbers	46-1 & 7.01.02c LDC
	Wrecked or inoperable motor vehicles on private property declared a nuisance and prohibited Remove, repair, or register vehicle & put current tags on it	42-175
	Encroachments in the public right-a-way	70-2
	Other	

Please contact George Wells, Code Compliance Officer at (904) 310-3147 or at gwells@fbfl.org within 10 Days of this notice, by 8/5, 2018 to discuss compliance with the above listed issue. *Failure to do so will result in an official written notice with a possible outcome of fines.*

Comments: Remove or store all Trash, Junk, + debris in Front + R/side Front

Wells

Code Compliance Officer

7.26.2018 13:16

7.26.2018 13:15

7.26.2018 13:15

7.26.2018 13:15

8.22.2018 11:17

8.22.2018 11:17

Working Together for a Safer Community

[illegible]ent

Code Compliance Officer

[illegible] Street
Fernandina Beach, Florida 32034
[illegible]
[illegible]

310-3147

(Office) 904-310-3136

[illegible]RCEMENT & APPEALS BOARD
[illegible]IOLATION/NOTICE OF HEARING

August 22, 2018

Case Number: 18-00094

Posted Notice On Front Door

IN THE MATTER OF:

[illegible]
[illegible] Terrace
Fernandina Beach, Florida, 32034

PREMISES: 407 S. 13th Terrace, Fernandina Beach, FL 32034

The brief legal description of the real property upon which this [illegible] **BLOCK 241 LOTS 61 & 62 IN OR 630 PG 886 CITY OF FDNA BEACH, FERNANDINA** [illegible]

Parcel # 00-00-31-1800-[illegible]

The Code Enforcement office of the City of Fernandina Beach has previously notified you of alleged violation(s) of the City of Fernandina Beach Code of Ordinances and contends that the following violation(s) exist: **42-116 (A & B) Cleaning of lots; Maintenance of Structures.** (These can be found on the City's website: www.fbfl.org/code). This notice specifically addresses the appliances on the front driveway and the headboard lying against the front bushes and any other junk and debris that needs to be removed or stored properly.

Therefore, you are hereby directed to remedy and discontinue the problems by removing or properly storing all junk, [illegible] and debris in the front yard area by September 1, 2018 ten (10) days from the date of this notice. [illegible] notified of compliance by you, the department will refer this matter to the Code Enforcement & Appeals Board for legal action at the date and time listed below.

DATE: [illegible]
TIME: 5:00 p.m.
LOCATION: City Commission Chambers, 204 Ash Street
Fernandina Beach, Florida 32034

8.22.2018 11:17

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Elvira I Nowlin
407 S. 13th Terrace
Fernandina Beach, Florida, 32034

9590 9402 3035 7124 1646 13

2. Article Number (Transfer from service label)

7014 0150 0002 0092 6670

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

☐ Adult Signature
☐ Adult Signature Restricted Delivery
☑ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
Mail
Mail Restricted Delivery
(over $500)

☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Return Receipt for Merchandise
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

PS Form 3811, July 2015 PSN 7530-02-000-9053 — Domestic Return Receipt

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

CERTIFIED MAIL™

7014 0150 0002 0092 6670

7014 0150 0002 0092 6670

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

Code Eve.

For delivery information visit our website at www.usps.com®

OFFICIAL USE

Postage	$ .47
Certified Fee	3.45
Return Receipt Fee (Endorsement Required)	2.75
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$ 6.67

Postmark Here

Elvira I Nowlin
407 S. 13th Terrace
Fernandina Beach, Florida, 32034

for Instructions

7014 0150 0002 0092 6670

U.S. Postal Service™

CERTIFIED MAIL™ RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

Code Enf.

For delivery information visit our website at www.usps.com®

OFFICIAL USE

Postage	$ .47
Certified Fee	.45
Return Receipt Fee (Endorsement Required)	2.75
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$ 6.67

FERNANDINA BCH FL 32034 AUG 07 2018 USPS-32034

Postmark Here

Elvira I Nowlin
407 S. 13th Terrace
Fernandina Beach, Florida, 32034

for Instructions

ADMINISTRATIVE FEES INCURRED FROM
407 S. 13th Terrace
AS OF 09/6/18
CODE CASE #18-00094

STAFF PERSONNEL OR ITEMS	# OF UNITS OR HOURS	PRICE OR RATE PER HOUR	TOTAL
Michelle Forstrom, Code Enforcement Manager	1	$23.13	$23.13
George Wells, Code Compliance Officers	5	$20.80	$104.00
Katie Newton, Board Secretary/Legal Assistant	1.5	$21.63	$32.45
Record Findings of Facts with the Clerk of Circuit Court of Nassau County	1	$10.00	$10.00
Certified letters mailed	1	$6.48	$6.48
First Class letters mailed	1	$0.48	$0.48

TOTAL ADMINISTRATIVE FEES DUE **$176.54**

***** TOTAL AMOUNT DUE MUST BE PAID IN FULL TO CLOSE THIS CASE AND AVOID A LIEN ON THIS PROPERTY***

City of Fernandina Beach

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER OF ENFORCEMENT

Date: August 1, 2019
Case Number: 2019-0073

IN THE MATTER OF: Respondent Name: Cecilia Davis-Taylor
Respondent Address: 112 South 9th Street, Fernandina Beach, FL 32034

This case having come before the Code Enforcement & Appeals Board of the City of Fernandina Beach on August 1, 2019, a violation hearing having been held, and the Board having heard testimony, does hereby make the following finding of facts, and conclusions of law therefore imposing the following order and penalty:

SECTION 1 - FINDINGS OF FACT

1. The Respondent was properly served notice of these proceedings as required by law on June 17, 2019, and the Respondent was present at the hearing.

2. The real property on which the violations occurred is 112 South 9th Street, Fernandina Beach, FL and a brief legal description being **BLOCK 49 LOTS 1 2 & 7 IN OR 1335/1202 CITY OF FDNA BEACH, Fernandina Beach, FL 32034.**

3. The Respondent is the owner of record of the aforementioned real property.

4. The Respondent violated sections of the Fernandina Beach Code of Ordinances: **42-116 Duty to Maintain Property, 42-117 Exterior Structure (Maintenance);** and of the Land Development Code **8.03.07 Demolition by Neglect.**

SECTION 2 - CONCLUSION OF LAW & IMPOSITION OF FINE

1. Based on the foregoing findings of fact, the Board voted to find the property in violation of Section 42-116, and to assess administrative fees, and if not in compliance by November 6, 2019, to assess fines of $50.00 per day beginning November 6, 2019.

2. Based on the foregoing findings of fact, the Board voted to find the property in violation of Section 42-117 and LDC 8.03.07, and to continue the case until the November 7, 2019, hearing, to allow for the Historic District Council process to take place.

3. The City of Fernandina Beach shall record a certified copy of this order in the public records and this Order shall constitute a lien against the real property on which the violations exist and upon any other real or personal property owned by the Respondent if fines are not paid within thirty (30) days.

4. If the lien remains unpaid for a period of three (3) months from the date of the filing of the lien, the City of Fernandina Beach may foreclose on the lien or sue to recover a money judgment for the amount of the lien plus accrued interest.

City of Fernandina Beach

SECTION 3 - CERTIFICATION OF VOTE

Done and ordered August 1, 2019 at the City of Fernandina Beach, Nassau County, Florida Code Enforcement & Appeals Board Hearing.

By: _____

Chair, Carlton "Buddy" Boyd

COUNTY OF NASSAU

STATE OF FLORIDA

I HEREBY CERTIFY that on this day before me, the undersigned, a Notary Public in and for the State of Florida at Large, personally appeared Carlton "Buddy" Boyd to me well known to be the Chair of the Code Enforcement and Appeals Board of the City of Fernandina Beach, and known to me to be the persons who executed the foregoing Findings of Fact for the City of Fernandina Beach as such Chair: and they severally acknowledged the execution of the same to be their free act and deed by authority and on behalf of the City of Fernandina Beach for the uses and purposes therein expressed.

WITNESS my hand and official seal at Fernandina Beach, said County and State on this 1st day of August, 2019.

(NOTARY SEAL)

_____

Notary Public, State of Florida

Katie A. Newton
NOTARY PUBLIC
STATE OF FLORIDA
Comm# GG123910
Expires 7/13/2021

*Florida Statute 162.11 Appeals.—An aggrieved party, including the local governing body, may appeal a final administrative order of an enforcement board to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the enforcement board. An appeal shall be filed within 30 days of the execution of the order to be appealed.

9.26.2019 14:48

9.26.2019 14:48

WILDLIFE
Habitat
9.26.2019 14:49

9.26.2019 14:49

STOP
9.26.2019 14:49

9.26.2019 14:50

9.26.2019 14:55

STAFF REPORT
Case 2019-0073
City of Fernandina Beach Code Enforcement & Appeals Board
June 27, 2019

Violation Information

Owner	Cecilia Davis-Taylor 112 South 9th Street Fernandina Beach, Florida 32034
Violation	City of Fernandina Beach – Code Of Ordinances, Section 42-116 Duty to Maintain Property & 42-117 Exterior Structure (Maintenance) & 8.03.07 Demolition by Neglect.
Location:	112 South 9th Street, Fernandina Beach, Florida 32034

Summary and Background Information

October 3, 2017, During a proactive sweep I observed two (2) wooden sheds in the rear of this property that had extensive rot damage to them. I spoke with the owner giving her 30 days to correct the violation. Follow-up inspection was 11/5/17.

November 5, 2017, 2nd inspection of property showed no change to the original violation.

November 7, 2017, I mailed out a NOV/NOH letter via certified mail to the owner. The owner was given until December 7, 2017 to come into compliance or appear before the CEAB on 1/4/2018. The case was not brought before the board. The owner was trying to get assistance to make the repairs.

December 10, 2018, The property was recited for yard overgrowth, rotten front porch decking, and two (2) sheds in the rear of the property that have extensive rot damage to them. I left a door hanger giving the owner 30 days to correct the violations. I recorded photographs of the notice of visit and the pictures of the violations. Basically I started this case anew in our new energov system.

May 7, 2019, I mailed out a NOV/NOH letter via certified mail to the owner giving her until 6/10/19 to come into compliance or appear before the CEAB on 6/27/19. The return receipt card came back signed by Mrs. Davis-Taylor. On this letter we included the rotten front porch decking and the yard overgrowth in addition to the rotten rear sheds.

June 17, 2019, A NOV/NOH inspection was performed which showed no change to the original violations.

June 18, 2019, Pre-agenda inspection- no change.

Conclusion; Mrs. Davis-Taylor came into city hall to pick up the HDC applications from Sal Cumella for the work that is needed to be done at her property. Mrs. Davis-Taylor did not return to submit her application for her repairs to date. The property is still in violation of 42-116 Duty to Maintain Property, 42-117 Exterior Structure (Maintenance), 8.03.07 Demolition by Neglect. This property has been in violation for way to long, we have been very accommodating in giving her time to get help.

Recommendation

The City recommends a fine of $ 50.00 per day per violation, along with administration fees incurred.

Submitted by:

George Wells
Code Compliance Officer

CITY OF FERNANDINA BEACH George Wells

Code Enforcement Department Code Enforcement Officer

ADMINISTRATIVE FEES INCURRED FROM
112 South 9th Street
AS OF June 27, 2019
CODE CASE #2019-0073

STAFF PERSONNEL OR ITEMS	# OF UNITS OR HOURS	PRICE OR RATE PER HOUR	TOTAL
Michelle Forstrom, Code Enforcement Director	1	$23.13	$23.13
George Wells, Code Compliance Officer	7	$21.63	$151.41
Katie Newton, Board Secretary/Legal Assistant	2	$21.63	$43.26
Tammi Bach, City Attorney	1	$68.64	$68.64
Record Findings of Facts with the Clerk of Circuit Court of Nassau County	1	$10.00	$10.00
Certified letters mailed	1	$6.70	$6.70
First Class letters mailed	1	$0.50	$0.50

TOTAL ADMINISTRATIVE FEES DUE $303.64

*****TOTAL AMOUNT DUE MUST BE PAID IN FULL TO CLOSE THIS CASE AND AVOID A LIEN ON THIS PROPERTY*****

CITY OF FERNANDINA BEACH
Code Enforcement Department

George Wells
Code Enforcement Officer

CODE ENFORCEMENT & APPEALS BOARD
NOTICE OF VIOLATION/NOTICE OF HEARING

May 7, 2019

Case Number: CODE-2019-0073

Cert. #: 7016 1370 0001 9997 8015

IN THE MATTER OF:

CECILIA DAVIS-TAYLOR
112 S 9TH St.
FERNANDINA BEACH, FL 32034

PREMISES: 112 S 9TH ST FERNANDINA BEACH, 32034

The brief legal description of the real property upon which this violation occurred is: BLOCK 49 LOTS 1 2 & 7 IN OR 1335/1202 CITY OF FDNA BEACH

The Code Enforcement office of the City of Fernandina Beach is notifying you of alleged violation(s) of the City of Fernandina Beach Code of Ordinances and/or the City of Fernandina Beach Land Development Code and contends that the following violation(s) exist:

42-117	**Exterior Structure (Maintenance)**	
	The front porch has rotten wood on the decking-repair or replace as needed. Obtain HDC approval & proper building permits.	**By 6/10/2019**
42-116	**Duty to Maintain Property**	
	Cut all high grass, weeds, and vegetation on entire property that is in excess of twelve inches (12"). All areas of the yard that are creating a nuisance must be cut and maintained.	**By 6/10/2019**
8.03.07	**Demolition by Neglect**	
	(2) wooden sheds in the rear of the property have experienced demolition by neglect. Demo or repair both sheds to correct the violation. Obtain HDC approval and all building permits as needed.	**By 6/10/2019**

(These can be found on the City's website: www.fbfl.us/code).

If this office is not notified of compliance by you, this department will refer this matter to the Code Enforcement & Appeals Board for legal action at the date and time listed below.

DATE:	June 27, 2019
TIME:	5:30 PM
LOCATION:	City Commission Chambers, 204 Ash St

YOU HAVE THE RIGHT to appear before the Board at that time to answer and defend the allegations that you have violated the above cited provision(s) of the Code of Ordinances/Land Development Code.

If the Board finds that you are in violation, they will consider all appropriate actions required to bring the property into compliance, which may include, but is not limited to the recovery of fees, fines which may be imposed for the duration of the non-compliance (NOT TO EXCEED $250.00 per day, per violation), and in some cases demolition.

Please be advised that the Rules of the Code Enforcement & Appeals Board and the Code of Ordinances of the City of Fernandina Beach govern the procedures of the Board.

PLEASE GOVERN YOUR SELF ACCORDINGLY.

If you have any questions, please feel free to contact me (please see my attached business card for contact information).

George Wells

Code Compliance Officer

Hearing impaired or non-English speaking individuals may request a language or sign interpreter at least (10) ten working days prior to this hearing. Please contact the City Clerk's office at (904) 310-3115.

DEDICATED FOR A SAFER COMMUNITY

CITY OF PENNSBURG BEACH
CODE ENFORCEMENT
[illegible] 3rd Street
([illegible]) [illegible]
[illegible] www.[illegible].us/Code

NOTICE OF VISIT

Address: 102 S. 9th St.

Date: 12/10/18 Time: 2:00 AM PM

THIS IS TO SERVE AS A WARNING THAT YOU MAY BE IN VIOLATION OF THE FOLLOWING CITY ORDINANCE(S):

REASON FOR VISIT	CODE #
X [illegible]	[illegible]
[illegible]	[illegible]
X [illegible] of Demo sheds	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
[illegible]	[illegible]
X [illegible] Front Porch rotten decking	[illegible]

Please contact George Wells, Code Compliance Officer at ([illegible]) [illegible] at your earliest convenience within 30 days of this notice, or by 1/9 or 1/9 to discuss compliance with the above cited issue. Failure to do so will result in an official written notice with a possible outcome of fines.

Comments:
Must come before HRC for Demo request for sheds.
Wells

Code Compliance Officer

12.10.2018 13:55

12.10.2018 13:55

12.10.2018 13:55

12.10.2018 13:55

12.10.2018 13:52

12.10.2018 13:52

12.10.2018 13:52

12.10.2018 13:52

12.10.2018 13:52

12.10.2018 13:53

ENDER: *COMPLETE THIS SECTION*

Complete items 1, 2, and 3.
Print your name and address on the reverse so that we can return the card to you.
Attach this card to the back of the mailpiece, or on the front if space permits.

Article Addressed to:

Cecilia Davis-Taylor
112 S. 9th St
Fernandina Beach Fl 32034

9590 9402 3035 7124 1640 26

. Article Number *(Transfer from service label)*

7016 1370 0001 9997 8015

S Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent
☑ Addressee

B. Received by *(Printed Name)*

Cecilia Davis-Taylor

C. Date of Delivery

5-14-19

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

☐ Adult Signature
☐ Adult Signature Restricted Delivery
☐ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail
☐ Insured Mail Restricted Delivery
(over $500)

☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Return Receipt for Merchandise
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

CITY OF
FERNANDINA BEACH
10/03/2017 10:48 AM

10/03/2017 10:48 AM

STAFF REPORT
Case 2019-0278
City of Fernandina Beach Code Enforcement & Appeals Board
October 3, 2019

Violation Information

Owner	Jordon Willie E. Smith Est. C/O Emily McDonald 817 E. 224th St. Ground Floor Bronx, NY 10466
Violation	City of Fernandina Beach – Code Of Ordinances, Section: 42-116 Duty To Maintain Property
Location:	102 N. 10th Street, Fernandina Beach, Florida 32034

Summary and Background Information

June 25, 2019, during a proactive sweep I observed an improved lot that needed to be cut and debris removed. I recorded a photo of the violation.

July 31, 2019, we mailed out a NOV/NOH letter via certified mail to the owner. The certified letter was returned unclaimed to our office September 11, 2019.

August 28, 2019, we mailed a copy of the NOV/NOH letter via 1st class mail to the owner. An affidavit of mailing was filled out and notarized. We also posted a copy of the NOV/NOH letter on the vacant lot in a waterproof stand. I recorded a photo of the posting on the lot and filled out an affidavit of service. The owner was given until 9/8/19 to comply or appear before the CEAB on 10/3/19.

September 8, 2019, no change.

September 25, 2019, pre-agenda inspection-no change.

Conclusion;
This property was previously cited back in 12/2017 and the certified mail was accepted by Emily McDonald. I believe the owner is aware now and is not claiming our certified mail. We tried to get contact numbers without any success. The posting we placed on the property has been removed. We have done everything in our power to give proper service.

Recommendation;
The City recommends a fine of $ 50.00 a day for the violation, along with administration fees incurred.

Submitted by:

George Wells
Code Compliance Officer

CITY OF FERNANDINA BEACH
Code Enforcement Department

George Wells
Code Enforcement Officer

ADMINISTRATIVE FEES INCURRED FROM
10 N. 10th Street
As of 10/3/19
CODE CASE #2019-0278

STAFF PERSONNEL OR ITEMS	# OF UNITS OR HOURS	PRICE OR RATE PER HOUR	TOTAL
Michelle Forstrom, Code Enforcement Manager	1	$25.24	$25.24
George Wells, Code Compliance Officers	5	$21.63	$108.15
Katie Newton, Board Secretary/Legal Assistant	1	$23.40	$23.40
Tammi Bach, City Attorney	0.5	$68.64	$34.32
Gayle Murray	2	$13.00	$26.00
Record Findings of Facts with the Clerk of Circuit Court of Nassau County	1	$10.00	$10.00
Certified letters mailed	1	$6.70	$6.70
First Class letters mailed	1	$0.50	$0.50

TOTAL ADMINISTRATIVE FEES DUE $234.31

*****TOTAL AMOUNT DUE MUST BE PAID IN FULL TO CLOSE THIS CASE AND AVOID A LIEN ON THIS PROPERTY*****

CITY OF FERNANDINA BEACH **Michelle D. Forstrom**
Code Enforcement Department Code Enforcement Director

CODE ENFORCEMENT & APPEALS BOARD
2nd NOTICE OF VIOLATION/NOTICE OF HEARING

August 28, 2019 Case Number: CODE-2019-0278

IN THE MATTER OF:

Jordon Willie E. Smith Est. C/O Emily McDonald
817 E 224th ST Ground Floor
Bronx, NY 10466

PREMISES: 102 N 10TH ST FERNANDINA BEACH, FL 32034

The brief legal description of the real property upon which this violation occurred is: BLOCK 80 LOT S1/2 OF 1 OR 100/240 CITY OF FDNA BEACH

The Code Enforcement office of the City of Fernandina Beach is notifying you of alleged violation(s) of the City of Fernandina Beach Code of Ordinances and/or the City of Fernandina Beach Land Development Code and contends that the following violation(s) exist:

42-116	**Duty to Maintain Property**	
	Cut all high grass and weeds and remove all debris that has been dumped on lot.	**By 9/8/2019**

(These can be found on the City's website: www.fbfl.us/code).

If this office is not notified of compliance by you, this department will refer this matter to the Code Enforcement & Appeals Board for legal action at the date and time listed below.

DATE: October 3, 2019

TIME: 5:30 PM

LOCATION: City Commission Chambers, 204 Ash St

YOU HAVE THE RIGHT to appear before the Board at that time to answer and defend the allegations that you have violated the above cited provision(s) of the Code of Ordinances/Land Development Code.

If the Board finds that you are in violation, they will consider all appropriate actions required to bring the property into compliance, which may include, but is not limited to the recovery of fees, fines which may be imposed for the duration of the non-compliance (NOT TO EXCEED $250.00 per day, per violation), and in some cases demolition.

Please be advised that the Rules of the Code Enforcement & Appeals Board and the Code of Ordinances of the City of Fernandina Beach govern the procedures of the Board.

PLEASE GOVERN YOUR SELF ACCORDINGLY.

If you have any questions, please feel free to contact me (please see my attached business card for contact information).

George Wells

Code Compliance Officer

Hearing impaired or non-English speaking individuals may request a language or sign interpreter at least (10) ten working days prior to this hearing. Please contact the City Clerk's office at (904) 310-3115.

AFFIDAVIT OF SERVICE

State of Florida
County of Nassau

Code Enforcement Case Number: 2019-0278

I, George Wells, being first duly sworn, depose and state as follows:

1. That I am an employee of the City of Fernandina Beach, Code Enforcement;

2. That part of my duties include posting Notice of Violation/Notice of Hearing letters, and other correspondence; and

3. That on the 28th Day of August, 2019, at 1:31 P.M., I posted a Notice of Violation/Notice of Hearing letter on the vacant property at 102 N.10th Street for **Case 2019-0278, Jordon Willie E. Smith Est. C/O Emily McDonald, - 817 E. 224th St. Ground Floor, Bronx, NY 10466** .

FURTHER AFFIANT SAYETH NAUGHT.

Signature: George Wells

George Wells
(Printed name of Code Compliance Officer)

Subscribed and sworn to before me, a notary public in and for the State of Florida, this 28th day of August, 2019.

(SEAL)

Signature: Katie A Newton

Katie A Newton
(Printed name of Notary)

Katie A. Newton
NOTARY PUBLIC
STATE OF FLORIDA
Comm# GG123910
Expires 7/13/2021

CITY OF FERNANDINA BEACH
Code Enforcement Department

George Wells
Code Enforcement Officer

CODE ENFORCEMENT & APPEALS BOARD
NOTICE OF VIOLATION/NOTICE OF HEARING

July 31, 2019

Case Number: CODE-2019-0278

Cert. #: 7016 1370 0001 9997 8497

IN THE MATTER OF:

Jordon Willie E. Smith Est. C/O Emily McDonald
817 E 224th ST Ground Floor
Bronx, NY 10466

PREMISES: 102 N 10TH ST FERNANDINA BEACH, FL 32034

The brief legal description of the real property upon which this violation occurred is: BLOCK 80 LOT S1/2 OF 1 OR 100/240 CITY OF FDNA BEACH

The Code Enforcement office of the City of Fernandina Beach is notifying you of alleged violation(s) of the City of Fernandina Beach Code of Ordinances and/or the City of Fernandina Beach Land Development Code and contends that the following violation(s) exist:

42-116 **Duty to Maintain Property**

Cut all high grass and weeds and remove all debris that has been dumped on lot. **By 8/15/2019**

(These can be found on the City's website: www.fbfl.us/code).

If this office is not notified of compliance by you, this department will refer this matter to the Code Enforcement & Appeals Board for legal action at the date and time listed below.

DATE: September 5, 2019

TIME: 5:30 PM

LOCATION: City Commission Chambers, 204 Ash St

YOU HAVE THE RIGHT to appear before the Board at that time to answer and defend the allegations that you have violated the above cited provision(s) of the Code of Ordinances/Land Development Code.

If the Board finds that you are in violation, they will consider all appropriate actions required to bring the property into compliance, which may include, but is not limited to the recovery of fees, fines which may be imposed for the duration of the non-compliance (NOT TO EXCEED $250.00 per day, per violation), and in some cases demolition.

Please be advised that the Rules of the Code Enforcement & Appeals Board and the Code of Ordinances of the City of Fernandina Beach govern the procedures of the Board.

PLEASE GOVERN YOUR SELF ACCORDINGLY.

If you have any questions, please feel free to contact me (please see my attached business card for contact information).

George Wells

Code Compliance Officer

Hearing impaired or non-English speaking individuals may request a language or sign interpreter at least (10) ten working days prior to this hearing. Please contact the City Clerk's office at (904) 310-3115.

AFFIDAVIT OF MAILING

State of Florida
County of Nassau

I, George Wells, being first duly sworn, depose and state as follows:

1. That I am an employee of the City of Fernandina Beach as Code Enforcement Officer for the City of Fernandina Beach; and
2. That part of my duties includes preparation of case evidence to go before the Code Enforcement & Appeals Board; and
3. That one of the responsibilities for preparing case evidence is to ensure delivery of such evidence to the Respondent before the hearing; and
4. That on August, 28, 2019, I mailed a Notice of Violation/Notice of Hearing letter for violation of 42-116 - Duty to Maintain Property that will be presented to the Code Enforcement & Appeals Board on October 3, 2019 for property owned by Jordon Willie E. Smith Est. c/o Emily McDonald at 102 N 10th Street, Fernandina Beach, FL 32034 by First Class US mail to 817 E. 224th St. Ground Floor, Bronx, NY, 10466

FURTHER AFFIANT SAYETH NAUGHT.

George Wells

Subscribed and sworn to before me, a notary public in and for the State of Florida this 28th day of August 2019.

(Seal)

Notary Public State of Florida
Gayle Murray
My Commission GG 002187
Expires 06/22/2020

Henry Plant Guide to Florida
Clarke Murray
McClammy Hall 00 00212
Eugene, OR 97403

USPS Tracking®

FAQs > (https://www.usps.com/faqs/uspstracking-faqs.htm)

Track Another Package +

Tracking Number: 70161370000199978497

Remove ×

Your item could not be delivered on August 23, 2019 at 1:50 pm in BRONX, NY 10466. It was held for the required number of days and is being returned to the sender.

Alert

August 23, 2019 at 1:50 pm
Unclaimed/Being Returned to Sender
BRONX, NY 10466

Get Updates ∨

Feedback

Text & Email Updates ∨

Tracking History ∨

Product Information ∨

See Less ∧

Can't find what you're looking for?

Go to our FAQs section to find answers to your tracking questions.

FAQs (https://www.usps.com/faqs/uspstracking-faqs.htm)

CERTIFIED MAIL

City of Fernandina Beach
204 Ash Street
Fernandina Beach, FL 32034

7016 1370 0001 9997 8497

Hasler
07/31/2019
US POSTAGE $006.70

ZIP 32034
011D11650330

RECEIVED
SEP 11 2019
CODE ENFORCEMENT
FERNANDINA BEACH, FLORIDA

Jordan Willie E Smith Est
c/o Emily McDonald
817 E 224th St Ground Floor
Bronx, NY 10466

NIXIE 100 DE 1 0008/27/19
RETURN TO SENDER
UNCLAIMED
UNABLE TO FORWARD

UNC BC: 32034423004 *1438-02443-31-45
10466440
32034>4230

N 12
13

City of Fernandina Beach
204 Ash Street
Fernandina Beach, FL 32034

7016 1370 0001 9997 8497

7016 1370 0001 9997 8497

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

1022 N
10th

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee
$
Extra Services & Fees (check box, add fee as appropriate)
☐ Return Receipt (hardcopy) $
☐ Return Receipt (electronic) $
☐ Certified Mail Restricted Delivery $
☐ Adult Signature Required $
☐ Adult Signature Restricted Delivery $
Postage
$
Total Postage and Fees
$
Sent To
Jordan Willie E Smith Est
c/o Emily McDonald
Street and Apt. No., or PO Box No.
817 E 224th St Ground Floor
City, State, ZIP+4
Bronx, NY 10466

Postmark Here

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

Est
d
Floor

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Jordan Willie E Smith Est
c/o Emily McDonald
817 E 224th St Ground Floor
Bronx, NY 10466

9590 9402 3035 7124 1630 50

2. Article Number (Transfer from service label)

7016 1370 0001 9997 8497

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X
☐ Agent
☐ Addressee

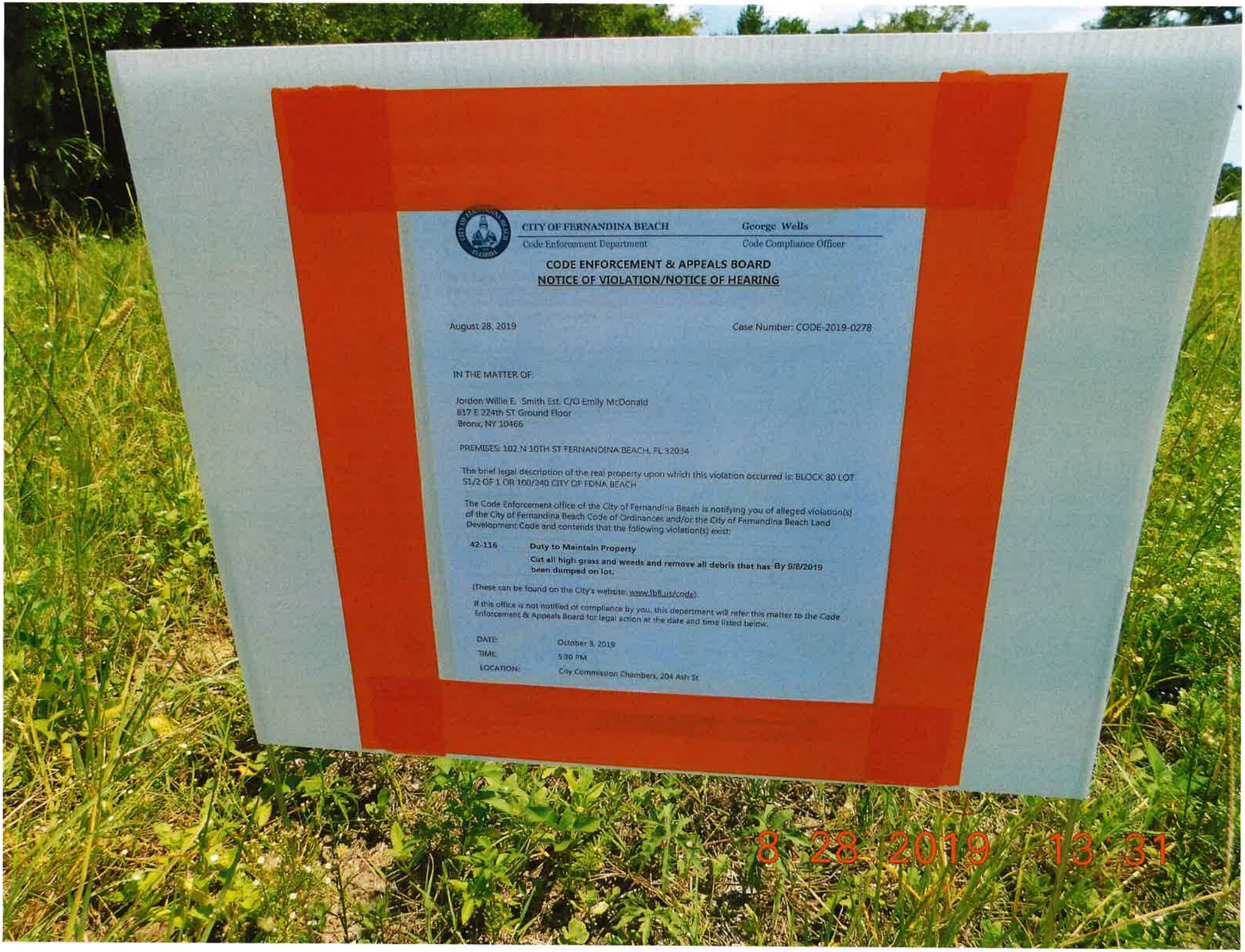
B. Received by (Printed Name)
C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail
☐ Insured Mail Restricted Delivery (over $500)
☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Return Receipt for Merchandise
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

6.25.2019 15:13

6.25.2019 15:13



CITY OF FERNANDINA BEACH — George Wells
Code Enforcement Department — Code Compliance Officer

CODE ENFORCEMENT & APPEALS BOARD
NOTICE OF VIOLATION/NOTICE OF HEARING

August 28, 2019 — Case Number: CODE-2019-0278

IN THE MATTER OF:

Jordon Willie E. Smith Est. C/O Emily McDonald
817 E 224th ST Ground Floor
Bronx, NY 10466

PREMISES: 102 N 10TH ST FERNANDINA BEACH, FL 32034

The brief legal description of the real property upon which this violation occurred is: BLOCK 80 LOT 51/2 OF 1 OR 100/240 CITY OF FDNA BEACH

The Code Enforcement office of the City of Fernandina Beach is notifying you of alleged violation(s) of the City of Fernandina Beach Code of Ordinances and/or the City of Fernandina Beach Land Development Code and contends that the following violation(s) exist:

42-116 **Duty to Maintain Property**
Cut all high grass and weeds and remove all debris that has been dumped on lot. **By 9/8/2019**

(These can be found on the City's website: www.fbfl.us/code)

If this office is not notified of compliance by you, this department will refer this matter to the Code Enforcement & Appeals Board for legal action at the date and time listed below.

DATE: October 3, 2019
TIME: 5:30 PM
LOCATION: City Commission Chambers, 204 Ash St

8.28.2019 13:31

STOP
8.28.2019 13:30

9.25.2019 09:52

9.25.2019 09:52

STAFF REPORT
Case 2019-0292
City of Fernandina Beach Code Enforcement & Appeals Board
October 3, 2019

Violation Information

Owner	William Webb 2004 Highland Drive Fernandina Beach, Florida 32034
Violation	City of Fernandina Beach – Code Of Ordinances, Section 42-117 Exterior Structure (Maintenance)
Location:	2004 Highland Drive, Fernandina Beach, Florida 32034

Summary and Background Information

July 3, 2019, during a proactive sweep I observed a blue tarp draped over the entire left front of the roof of this house. I gave the owner until 8/3/19 to correct the roof issues and come into compliance. I recorded a photo of the tarp on the roof and the notice of visit.

August 5, 2019, a 2nd inspection was performed where there was no change to the original violation.

August 7, 2019, I mailed out a NOV/NOH letter via certified mail to the owner. The signature card was returned with an owners' signature. The owner was given until 9/06/19 to come into compliance or appear before the CEAB on 10/03/19.

September 6, 2019, a NOV/NOH inspection was performed – No repairs had been made to the roof.

September 25, 2019, a pre-agenda inspection was performed – No change.

Conclusion;
The office of Code Enforcement & the Building Department has tried to get Mr. Webb some assistance thru Builders Care but the job has been denied. This violation has been going on for over a year and enforcement has been withheld due to him trying to get refinancing to make the repairs. We have received multiple complaints since we opened this case, so it is time to follow our code enforcement guidelines.

Recommendation;
The City recommends a fine of $ 75.00 a day for the violation, along with administration fees incurred.

Submitted by:

George Wells
Code Compliance Officer

CITY OF FERNANDINA BEACH
Code Enforcement Department

George Wells
Code Enforcement Officer

ADMINISTRATIVE FEES INCURRED FROM
2004 Highland Drive
As of 10/3/19
CODE CASE #2019-0292

STAFF PERSONNEL OR ITEMS	# OF UNITS OR HOURS	PRICE OR RATE PER HOUR	TOTAL
Michelle Forstrom, Code Enforcement Manager	1	$25.24	$25.24
George Wells, Code Compliance Officers	4.5	$21.63	$97.34
Katie Newton, Board Secretary/Legal Assistant	1	$23.40	$23.40
Tammi Bach, City Attorney	0.5	$68.64	$34.32
Gayle Murray	0.5	$13.00	$6.50
Record Findings of Facts with the Clerk of Circuit Court of Nassau County	1	$10.00	$10.00
Certified letters mailed	1	$6.70	$6.70
First Class letters mailed	1	$0.50	$0.50

TOTAL ADMINISTRATIVE FEES DUE $204.00

*****TOTAL AMOUNT DUE MUST BE PAID IN FULL TO CLOSE THIS CASE AND AVOID A LIEN ON THIS PROPERTY*****

CITY OF FERNANDINA BEACH **George Wells**
Code Enforcement Department Code Enforcement Officer

CODE ENFORCEMENT & APPEALS BOARD
NOTICE OF VIOLATION/NOTICE OF HEARING

August 7, 2019 Case Number: CODE-2019-0292

Cert. #: 7016 1370 0001 9997 8510

IN THE MATTER OF:

William Webb
2004 Highland DR
Fernandina Beach, FL 32034

PREMISES: 2004 HIGHLAND DR FERNANDINA BEACH, FL 32034

The brief legal description of the real property upon which this violation occurred is: LOT 151 IN OR 1644/409 FOREST HILLS 3 PB 3/46

The Code Enforcement office of the City of Fernandina Beach is notifying you of alleged violation(s) of the City of Fernandina Beach Code of Ordinances and/or the City of Fernandina Beach Land Development Code and contends that the following violation(s) exist:

42-117	**Exterior Structure (Maintenance)**	
	Repair or replace all roof shingles and sheathing that is storm damaged or rotten to abate leaks in the roof that is covered by a blue tarp. Pull all necessary building permits.	**By 9/6/2019**

(These can be found on the City's website: www.fbfl.us/code).

If this office is not notified of compliance by you, this department will refer this matter to the Code Enforcement & Appeals Board for legal action at the date and time listed below.

DATE: October 3, 2019

TIME: 5:30 PM

LOCATION: City Commission Chambers, 204 Ash St

YOU HAVE THE RIGHT to appear before the Board at that time to answer and defend the allegations that you have violated the above cited provision(s) of the Code of Ordinances/Land Development Code.

If the Board finds that you are in violation, they will consider all appropriate actions required to bring the property into compliance, which may include, but is not limited to the recovery of fees, fines which may be imposed for the duration of the non-compliance (NOT TO EXCEED $250.00 per day, per violation), and in some cases demolition.

Please be advised that the Rules of the Code Enforcement & Appeals Board and the Code of Ordinances of the City of Fernandina Beach govern the procedures of the Board.

PLEASE GOVERN YOUR SELF ACCORDINGLY.

If you have any questions, please feel free to contact me (please see my attached business card for contact information).

George Wells

Code Compliance Officer

Hearing impaired or non-English speaking individuals may request a language or sign interpreter at least (10) ten working days prior to this hearing. Please contact the City Clerk's office at (904) 310-3115.

In Pursuit of Health, Safety & Quality of Community

CITY OF FERNANDINA BEACH
CODE ENFORCEMENT
204 Ash Street

(904) 310-3442
gwells@fbfl.city www.fbfl.us/Code

NOTICE OF VISIT

Address: 2004 Highland Dr

Date: 7-3-19 Time: 2:00 AM (PM)

THIS IS TO SERVE AS A WARNING THAT YOU MAY BE IN VIOLATION OF THE FOLLOWING CITY ORDINANCE(S):

REASON FOR VISIT:		CODE #
	Duty to Maintain Property	42-116
X	Exterior Structure (Maintenance) Repair or Replace roof covered by blue tarp	42-117
	Component Serviceability	42-118
	Rubbish and Garbage	42-119
	Pest Elimination	42-120
	Vacant Structures and Land (Maintenance)	42-121
	Swimming Pools (Maintenance)	42-122
	Water and Electric Service	42-123
	Recreational Vehicle, Boats, Trailers or Similar Vehicles Remove or store in a proper structure or in side or rear yard	7.01.05 LDC
	Accessibility of Garbage and Recycle Containers	66-44
	No Visible Address Numbers	45-1 & 7.01.02c LDC
	Wrecked or inoperable motor vehicles on private property declared a nuisance and prohibited.— Remove, repair, or register vehicle & put current tags on it	42-173
	Other	

Please contact George Wells, Code Compliance Officer at (904) 310-3442 or at gwells@fbfl.city, within 30 Days of this notice, by 8-3-, 20 19 to discuss compliance with the above listed issue. ***Failure to do so will result in an official written notice with a possible outcome of fines.***

Comments: Roof must be repaired or replaced so blue tarp can be removed. wells

Code Compliance Officer

7 3 . 2019 13:49

7. 3. 2019 13:50

9.25.2019 09:59

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

William Webb
2004 Highland Dr
Fernandina Beach, FL 32034

9590 9402 3035 7124 1630 12

2. Article Number *(Transfer from service label)*
7016 1370 0001 9997 8510

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X
☐ Agent
☐ Addressee

B. Received by *(Printed Name)*

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☑ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail
☐ Mail Restricted Delivery
00)
☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Return Receipt for Merchandise
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt

7016 1370 0001 9997 8510

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee
$

Extra Services & Fees *(check box, add fee as appropriate)*
☐ Return Receipt (hardcopy) $ 3.45
☐ Return Receipt (electronic) $
☐ Certified Mail Restricted Delivery $
☑ Adult Signature Required $ 2.75
☐ Adult Signature Restricted Delivery $

Postage $ .50

Total Postage and $ 6.70

Sent To

Street and Apt. No

City, State, ZIP+4

PS Form 3800, A

Postmark Here

USPS 32034 FERNANDINA BEACH FL

William Webb
2004 Highland Dr
Fernandina Beach, FL 32034

STAFF REPORT
Case 2019-0355
City of Fernandina Beach Code Enforcement & Appeals Board
October 3, 2019

Violation Information

Owner	Dexter & Regina N. Rainey 1002 Cedar St. Fernandina Beach, Florida 32034
Violation	City of Fernandina Beach – Code Of Ordinances, Section 42-173: Wrecked or inoperable motor vehicles on private property declared a nuisance and prohibited.
Location:	1002 Cedar Street, Fernandina Beach, Florida 32034

Summary and Background Information

August 13, 2019, During a proactive sweep I observed a white Dodge pick-up truck parked on the property with an expired license tag. I recorded a photo of the violation and the notice of visit posted on the front door.

August 20, 2019, I received a phone call from Mr. Rainey asking about the case and he stated he would be working on getting a tag for this vehicle.

August 26, 2019, A 2nd inspection was performed where there was no change to the original violation.

August 27, 2019, I mailed out a NOV/NOH letter via certified mail to the owner. The signature card was returned with an owners' signature. The owner was given until 9/06/19 to come into compliance or appear before the CEAB on 10/03/19.

September 9, 2019, A NOV/NOH inspection was performed-vehicle was still in violation.

September 25, 2019, A pre-agenda inspection was performed-vehicle was still in violation.

September 25, 2019, I placed a phone call to Mr. Rainey and left a voice mail on his answering machine for him to call me and give me an update.

Conclusion;
At the time of preparing this staff report I have not heard back from Mr. Rainey. The vehicle on this property is still in violation of 42-173 with an expired license tag.

Recommendation;
The City recommends a fine of $ 50.00 a day for the violation, along with administration fees incurred.

Submitted by:

George Wells
Code Compliance Officer

CITY OF FERNANDINA BEACH
Code Enforcement Department

George Wells
Code Enforcement Officer

ADMINISTRATIVE FEES INCURRED FROM
1002 Cedar Street
As of 10/3/19
CODE CASE #2019-0355

STAFF PERSONNEL OR ITEMS	# OF UNITS OR HOURS	PRICE OR RATE PER HOUR	TOTAL
Michelle Forstrom, Code Enforcement Manager	1	$25.24	$25.24
George Wells, Code Compliance Officers	4.5	$21.63	$97.34
Katie Newton, Board Secretary/Legal Assistant	1	$23.40	$23.40
Tammi Bach, City Attorney	0.5	$68.64	$34.32
Gayle Murray	0.5	$13.00	$6.50
Record Findings of Facts with the Clerk of Circuit Court of Nassau County	1	$10.00	$10.00
Certified letters mailed	1	$6.70	$6.70
First Class letters mailed	1	$0.50	$0.50

TOTAL ADMINISTRATIVE FEES DUE $204.00

*****TOTAL AMOUNT DUE MUST BE PAID IN FULL TO CLOSE THIS CASE AND AVOID A LIEN ON THIS PROPERTY*****

CITY OF FERNANDINA BEACH **George Wells**
Code Enforcement Department Code Compliance Officer

CODE ENFORCEMENT & APPEALS BOARD
NOTICE OF VIOLATION/NOTICE OF HEARING

August 26, 2019 Case Number: CODE-2019-0355

Cert. #: 7016 1370 0001 9997 8589

IN THE MATTER OF:

Dexter & Regia N. Rainey
1002 Cedar St.
Fernandina Beach, FL 32034

PREMISES: 1002 CEDAR ST FERNANDINA BEACH, FL 32034

The brief legal description of the real property upon which this violation occurred is: BLOCK 131 LOT N1/2 OF 1 IN OR 826/953 CITY OF FDNA BEACH

The Code Enforcement office of the City of Fernandina Beach is notifying you of alleged violation(s) of the City of Fernandina Beach Code of Ordinances and/or the City of Fernandina Beach Land Development Code and contends that the following violation(s) exist:

42-173	**Wrecked or inoperable motor vehicles on private property declared a nuisance and prohibited.**	
	White Dodge truck needs a current tag affixed on it.	**By 9/6/2019**

(These can be found on the City's website: www.fbfl.us/code).

If this office is not notified of compliance by you, this department will refer this matter to the Code Enforcement & Appeals Board for legal action at the date and time listed below.

DATE: October 3, 2019

TIME: 5:30 PM

LOCATION: City Commission Chambers, 204 Ash St

YOU HAVE THE RIGHT to appear before the Board at that time to answer and defend the allegations that you have violated the above cited provision(s) of the Code of Ordinances/Land Development Code.

If the Board finds that you are in violation, they will consider all appropriate actions required to bring the property into compliance, which may include, but is not limited to the recovery of fees, fines which may be imposed for the duration of the non-compliance (NOT TO EXCEED $250.00 per day, per violation), and in some cases demolition.

Please be advised that the Rules of the Code Enforcement & Appeals Board and the Code of Ordinances of the City of Fernandina Beach govern the procedures of the Board.

PLEASE GOVERN YOUR SELF ACCORDINGLY.

If you have any questions, please feel free to contact me (please see my attached business card for contact information).

George Wells

Code Compliance Officer

Hearing impaired or non-English speaking individuals may request a language or sign interpreter at least (10) ten working days prior to this hearing. Please contact the City Clerk's office at (904) 310-3115.

In Pursuit of [illegible] Quality

CITY OF FERNANDINA BEACH
CODE ENFORCEMENT
204 Ash Street

(904) 310-3442

gwells@fbfl.city www.fbfl.us/Code

NOTICE OF VISIT

Address: 1002 Cedar ST

Date: 8-13-19 Time: 3:46 AM (PM)

THIS IS TO SERVE AS A WARNING THAT YOU MAY BE IN VIOLATION OF THE FOLLOWING CITY ORDINANCE(S):

REASON FOR VISIT:		CODE #
	Duty to Maintain Property	42-116
	Exterior Structure (Maintenance) Repair	42-117
	Component Serviceability	42-118
	Rubbish and Garbage	
	Pest Elimination	42-119
	Vacant Structures and Land (Maintenance)	42-120
	Swimming Pools (Maintenance)	42-121
	Water and Electric Service	42-122
	Recreational Vehicle, Boats, Trailers or Similar Vehicles Remove or store in a proper structure or in side or rear yard	42-123
	Accessibility of Garbage and Recycle Containers	7.01.05 LDC
	No Visible Address Numbers	66-44
X	Wrecked or inoperable motor vehicles on private property declared a nuisance and prohibited— Remove, repair, or register vehicle & get current tags on it	46-1 & 7.01.02c LDC
	Other	42-175

Please contact George Wells, Code Compliance Officer at (904) 310-3442 or at gwells@fbfl.city, within 10 Days of this notice, by 8-23, 2019 to discuss compliance with the above listed issue. ***Failure to do so will result in an official written notice with a possible outcome of fines.***

Comments:

White Dodge Pick up has an expired tag

Wells

Code Compliance Officer

8.13.2019 15:44

MYFLORIDA.COM
06-18
047 JUH
SUNSHINE STATE
8.13.2019 15:41

MYFLORIDA.COM
06-18
047 JUH
SUNSHINE STATE
9.25.2019 09:07

DODGE
9.25.2019 09:07

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Dexter & Regia Rainey
1002 Cedar St
Fernandina Beach, FL 32034

9590 9402 3035 7124 1629 47

2. Article Number *(Transfer from service label)*

7016 1370 0001 9997 8589

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X Regia Rainey ☐ Agent ☐ Addressee

B. Received by *(Printed Name)* C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Adult Signature
☐ Adult Signature Restricted Delivery
☐ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery
☐ Insured Mail
☐ Insured Mail Restricted Delivery
☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Return Receipt for Merchandise
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee $ 2.04 ASH
Extra Services & Fees (check box, add fee as appropriate)
☐ Return Receipt (hardcopy) $ 3.45
☐ Return Receipt (electronic) $
☐ Certified Mail Restricted Delivery $
☐ Adult Signature Required $ 2.25
☐ Adult Signature Restricted Delivery $
Postage $ .60
Total Postage and Fees $ 6.70
Sent To
Street and Apt. No.
City, State, ZIP+4

Postmark Here

FERNANDINA BEACH FL 32034

Dexter & Regia Rainey
1002 Cedar St
Fernandina Beach, FL 32034

PS Form 3800, A

7016 1370 0001 9997 8589

CITY COMMISSION AGENDA ITEM
City of Fernandina Beach

SUBJECT: Ordinance 2019-23
Code Amendment - Code Enforcement and Appeals Board Liens

ITEM TYPE: Ordinance (w/o fiscal impact)

REQUESTED ACTION: Consider Ordinance 2019-23 at Second Reading.

SYNOPSIS: This Ordinance provides a process for requesting reduction and settlement of code enforcement liens from the City Commission. The Ordinance also codifies the authority of the City Manager to execute releases of liens when liens are paid in full. Additionally, the Ordinance gives the City Manager authority to negotiate interest on liens. Code enforcement liens do not accrue interest.

This Ordinance was approved at First Reading by the City Commission at its Regular Meeting on September 17, 2019.

FISCAL IMPACT: None

CITY ATTORNEY COMMENTS: Same as above.

CITY MANAGER RECOMMENDATION(S): I recommend that the City Commission enact proposed Ordinance 2019-23 at Second Reading.

Michelle Forstrom, Code Enforcement Director 9/26/2019

_____Date: September 26, 2019
Submitted By: Katie Newton, Legal Assistant

COMMISSION ACTION: Approve

ORDINANCE 2019-23

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, REGARDING AUTHORITY TO SATISFY CODE ENFORCEMENT AND OTHER LIENS AND GENERALLY CODE ENFORCEMENT BOARD; REPEALING SECTION 1-13, MUNICIPAL LIEN PRIORITY, DUE TO COURT RULING PROVIDING THAT MUNICIPAL LIENS ARE NOT SUPERPRIORITY LIENS; CREATING SECTION 1-14 APPLICATION FOR SATISFACTION OF LIENS, REDUCTION OF FINES AND SETTLEMENT OF LIENS; AMENDING SECTION 2-386 REMOVAL OF MEMBERS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, THE CITY OF FERNANDINA BEACH, FLORIDA, HEREBY ENACTS:

SECTION 1. It is hereby proposed that Chapter 1 of the Code of Ordinances, City of Fernandina Beach Florida, is hereby amended by repealing Section 1-13, Municipal liens, as follows:

~~**Sec. 1-13. - Municipal liens, priority.**~~

~~Each and every municipal lien existing from the delivery of municipal services, including liens for special assessments, code enforcement administrative costs and fees liens, excluding liens for code enforcement fines, shall be deemed to be superior to any other lien, including mortgages, and such lien shall survive any action to foreclose such inferior lien, whether such inferior lien arises by virtue of a mortgage, mechanic's lien or other security interest in real property; provided, however, that nothing contained in this section shall be construed to be expressly prohibited by any law or statute respecting the priority of liens, and where such law or statute specifically provides for the priorities of liens, the provisions of this section shall be construed to comply therewith. Prior to the city recording in the public records municipal code enforcement liens for costs and fees against real property that shall be deemed priority liens pursuant to this section, the city staff shall perform an owners and encumbrances simple title search and notify any mortgagees found in such search in writing at least ten days prior to recording such liens. This section does not apply to or affect any municipal liens deemed to be priority liens pursuant to Florida Statutes. This section shall not be applied retroactively and shall not affect municipal code enforcement liens for fees and costs deemed priority liens pursuant to this section, or any other lien, including mortgages, recorded in the public records prior to the effective date of this section.~~

SECTION 2. It is hereby proposed that Chapter 1 of the Code of Ordinances, City of Fernandina Beach Florida, is hereby amended by adding a section to be numbered Section 1-14, which section reads as follows:

Sec. 1-14. - Application for satisfaction of liens and process for reduction of code enforcement fines and settlement of code enforcement liens.

(a) *Liens other than code enforcement.* Where a lien has been recorded by the City on real or personal property for reasons other than code enforcement fines and administrative fees, the City Manager is authorized to negotiate, in his/her sole discretion, the amount of interest to be paid to the City on the lien and execute and record a satisfaction of lien upon full payment by property owner of the entire principal amount and any negotiated interest amount.

(b) *Recording Code Enforcement Board Liens.* The City records certified copies of Code Enforcement Board orders imposing fines and administrative fees generally within thirty (30) days of the Code Enforcement Board issuing such orders. Where a certified copy of an order imposing a fine, as described in Section 162.09, Fla. Stats, has been recorded in the public records and has become a lien against the land and/or property of the violator/property owner, such violator/property owner may apply for a satisfaction or settlement of such lien as follows:

(1) Upon full payment by the violator/property owner of the code enforcement fine imposed in accordance with this section and written confirmation from the Code Compliance Department that the violation(s) is in compliance, the City Manager or designee is hereby authorized to execute and record a satisfaction of lien.

(2) Upon request for settlement of a lien (reduction of lien amount) resulting from a code enforcement board order with a fine imposed in accordance with Section 162.09, Fla. Stats., the violator/property owner must submit a written application to the City Manager or designee on a form prescribed by the City. The City Commission hears requests for code enforcement fine reductions and lien settlements.

(3) The application must include the following:

(a) A copy of the order imposing a lien upon the property;
(b) The code enforcement case number;
(c) The date upon which the violator/property owner brought the subject property into compliance with the City Code;
(c) The factual basis upon which the violator/property owner believes the application for reduction of the lien should be granted;
(d) The terms upon which the violator/property owner believes a satisfaction or release of lien should be granted;
(e) The reasons, if any, compliance was not obtained prior to the order of fine being recorded; and
(f) The amount of the settlement (reduction in fine) sought by the violator/property owner; and
(g) This application must be executed under oath and sworn to in the presence of a notary public.

(4) Upon receipt of the application for settlement of lien, the City Manager or designee must confirm through the Code Enforcement Director that the violation which resulted in the order imposing the fine has been brought into compliance.

(5) The City Manager or designee must then review and consider the application for settlement of lien for the threshold criteria as follows:

(a) If a property owner has purchased property on which a lien was recorded, a waiver or reduction on lien will not be granted as in such cases, the lien should have been considered in reaching a purchase price;

(b) If a title insurance policy is issued upon the purchase of the property and the title insurance policy failed to identify or consider the lien, a waiver of reduction in lien will not be granted. In such cases, the lien should have been discovered by the title insurer and providing a reduction of waiver would place the City in the position of indemnifying the title insurer against its losses, which losses should be reflected in premium charges; or

(c) A request for waiver or reduction in lien will not be granted if the City Commission has previously reduced the amount of lien. This statement applies whether or not the request is received from the original applicant for reduction or a subsequent applicant.

(6) If the City Manager or designee determines that the request fails any one of the above-established guidelines, the City Manager or designee must issue a written denial of the request.

(7) If the City Manager or designee determines that the request does not fall under any one of the above-established guidelines, the City Manager or designee must review the application for settlement of lien further. The City Manager or designee, in determining its recommendations, must consider the following factors:

(1) The gravity of the violation;

(2) The time in which it took the violator/property owner to come into compliance;

(3) The accrued amount of the code enforcement lien; as compared to the value of the property and

(4) Any previous code violations.

(8) The City Manager or designee will place the application for settlement of lien upon the agenda of the next regularly scheduled and available City Commission meeting. The City Commission may take action based solely upon the sworn application, recommendation of the City Manager or designee and the applicant will have the opportunity to address the City

Commission as to the factors warranting settlement of lien in considering the application for settlement of lien.

(9) The City Commission may reduce the amount of the lien, waive the full amount of the fines or continue the lien in the full amount, except that the City Commission will not reduce or waive administrative fees/costs, repair costs or nuisance abatement costs to the City.

(10) When a lien is satisfied as a result of full payment, reduced payment or waiver of fines as ordered by the City Commission, the City will record the satisfaction/release of lien in the Public Records of Nassau County, Florida and provide a copy to the property owner.

(11) A lien settlement request must not be used for purposes of rehearing the entire case *de novo* or as an appeal of the original order imposing the fine. A hearing on a request for a lien settlement cannot be used as a substitute for an appeal.

(c) *Determination.* The City Commission must enter an order granting or denying the requested settlement of lien in whole or in part, or such relief as the City Commission may deem appropriate without reducing or waiving administrative fees, repair costs or nuisance abatement costs incurred by the City. The City Commission must consider all relevant factors to determine what relief, if any, is appropriate including, but not limited to:

(1) The nature and gravity of the violation;
(2) Any actions taken by the owner to correct the violation;
(3) The length of time between the ordered compliance date and the date the violation was brought into compliance;
(4) Any actual costs expended by the owner to cure the violation as provided by supporting documentation, including payment of city licensing or permit fees;
(5) Any other prior or current violations committed by the owner on the subject property or upon any other property owned by the owner within the city;
(6) Repeat violations committed by the same owner regardless of whether it is on the same property;
(7) Costs incurred by the city to abate the violation and prosecute the case, including administrative and overhead expenditures;

(d) Any reduction of fines granted must be contingent upon payment within a specified time period. Failure to remit payment to the city by the date ordered will cause the original fine not to be reduced.

(e) The request for fine reduction and settlement of lien must present a clear and convincing case, which is determined by the City Commission; otherwise it must be denied.

(f) If relief is denied based upon the merits of the claim, such denial must be with prejudice and the matter will not be reheard.

(g) If the fine reduction and settlement of lien request is based upon financial inability, a financial affidavit must be filed with supplemental information that may include bank account statements of at least six (6) months and federal income tax returns and W-2 statements for the last three (3) years.

(h) *Appeal.* Reduction under this section is strictly discretionary by the City Commission. The application must include a waiver of the right, if any, to seek judicial review of the City Commission's discretionary decision whether or not to reduce the fine and if so, by how much.

SECTION 3. It is hereby proposed that Section 2-386 of the Code of Ordinances, City of Fernandina Beach, Florida is hereby amended and reads as follows:

Sec. 2-386. - Removal of members.

A member of the code enforcement and appeals board shall be automatically removed from the board and the member's ~~office~~ seat declared vacant under any of the following conditions:

(1) If the member moves outside the city.

(2) ~~If a member fails to attend two of three successive meetings, unless excused by the chair or the city manager or his/her designee.~~ If a member has three (3) absences at the board's regular meetings in one (1) calendar year.

SECTION 4. All Ordinances or parts of Ordinances and all Resolutions in conflict herewith be and the same are hereby repealed.

SECTION 5. SEVERABILITY. If any provision or portion of the Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of the Ordinance ~~shall~~ remain in full force and effect.

SECTION 6. EFFECTIVE DATE. This Ordinance takes effect immediately upon its final enactment.

ENACTED this 15th day of October, 2019.

ATTEST:	CITY OF FERNANDINA BEACH
_____	_____
Caroline Best City Clerk	John A. Miller Commissioner-Mayor

APPROVED AS TO FORM & LEGALITY:

_____

Tammi E. Bach
City Attorney

BEFORE THE CITY OF FERNANDINA BEACH CITY COMMISSION

City of Fernandina Beach,

Petitioner,

vs.

CASE NO.
CEAB-CASENO

PROPERTY OWNER NAME

Respondent(s)

ORDER REDUCING PENALTY/LIEN

THIS CAUSE, was heard by the City Commission of the City of Fernandina Beach on (date) pursuant to FS 162.09(1). Upon review of the record in this cause, the City Commission finds as follows:

1. Respondent has failed to comply with the Findings of Fact set forth by the Code Enforcement & Appeals Board by the time set.

2. Administrative costs in the total amount of $_____ were incurred in prosecuting the case.

3. Fines accrued in the total amount of $ _____.

4. The City Commission agrees to reduce the fine to be paid to $_____ if payment is received no later than 30 days from the date of this hearing.

5. The total amount to be paid is $_____

6. **If penalty is not paid by that date, the full penalty of $_____ will be reinstated.**

The aforementioned penalties are for the violation(s) that existed at (PROPERTY ADDRESS), described as (LEGAL DESCRIPTION), Parcel ID# _____.

It is the order of the City Commission that the fine and costs imposed herein shall constitute a lien against all real property, in Nassau County, Florida, owned by the Respondent, and all personal property owned by the Respondent in Nassau County, Florida, pursuant to Section 162.09(3) Florida Statutes, and the City of Fernandina Beach Code of Ordinances Section 2-392; and the City Clerk is directed to record a true copy of this order in the Public Records of Nassau County, Florida.

DONE AND ORDERED in by the City of Fernandina Beach City Commission, City of Fernandina Beach, Florida on (DATE).

ATTEST:

_____
Caroline Best, Clerk

CITY OF FERNANDINA BEACH

_____
John A. Miller
Mayor-Commissioner

APPROVED AS TO FORM AND LEGALITY:

_____
Tammi E. Bach, City Attorney

CASE NO. CODE -_____

CITY COMMISSION HEARING

SETTLEMENT OF LIEN REQUEST

IF THE PROPERTY IS NOT IN COMPLIANCE, THE CITY COMMISSION WILL NOT CONSIDER A REQUEST FOR REDUCTION.

INSTRUCTIONS: Please fill in all of the pages of this form completely. Be specific when writing your statement. Please return it to the Code Enforcement Director at 516 South 10th Street, Fernandina Beach, FL 32034 or *mailing address* at 204 Ash Street, Fernandina Beach, FL 32034 **The Code Enforcement Director must receive the request at least 30 days prior to a scheduled City Commission Meeting in order for your case to be scheduled for the hearing.** You will be notified in writing of the City Commission's decision within 10 days after the hearing. If you are claiming medical or financial hardship, attach supporting documentation (i.e. a doctor's statement or proof of income). If you have any questions, please call the Code Enforcement Department at (904) 310-3440. **The City Commission will consider requests for reduction of fine only one time for each case. The City Commission's decision shall be the final action on the case.**

Property Owner's Name _____

Property Owner's Email _____

Property Address _____

Daytime telephone number _____

Hardship claimed? _____medical _____financial _____other (specify) _____

If the property owner is unable to complete this form, list the name of the person who is authorized to act for the property owner and their relationship. Attach a notarized affidavit from the property owner authorizing the representation. _____

_____

YOU SHOULD BE PRESENT AT THE HEARING TO ANSWER ANY QUESTIONS THE CITY COMMISSION MAY HAVE CONCERNING THIS REQUEST. YOUR ONLY OPPORTUNITY TO ADDRESS THE CITY COMMISSION WILL BE IN RESPONSE TO THEIR QUESTIONS. IT IS IN YOUR BEST INTEREST TO MAKE CERTAIN THAT THIS FORM AND ANY ATTACHMENTS COMPLETELY SET FORTH YOUR POSITION.

Complete statements on pages 2-4. <u>You should include the reasons why you did not comply with the Code Enforcement and Appeals Board's Original Order within the time specified.</u>

1. **Explain how you have attempted to cooperate with the City of Fernandina Beach personnel to achieve compliance of the Code Enforcement and Appeals Board.**

2. **Did you or your representative appear at the Code Enforcement and Appeals Board's previous hearing(s) concerning this matter? If not, please state the specific reasons why you did not appear at the hearing(s) and whether you notified the City of Fernandina Beach personnel of the fact that you would not be present.**

3. **Have you ever been (previous to this case) found by the Code Enforcement and Appeals Board to be in violation of the Code, which is the subject matter of the present case? If so, please advise what your response to the previous violation was.**

4. **Do you claim a homestead exemption on this property that is the subject of this case? Yes _____ No _____**

5. **Were you the owner of the property at the time the Code Enforcement case against the property began? Yes_____ No_____. If not, did you become aware of the Code Enforcement proceedings, Order, or Lien prior to recording title to the property?**

6. **What other liens exist against the property which is the subject matter of this Code Enforcement case?**

7. **Has the property been abandoned?**

8. **Is the property in need of rehabilitation? If yes, explain.**

9. **Is the City of Fernandina Beach's lien interfering with the sale or rehabilitation of the property or will the lien prevent the property from being conveyed to a new owner?**

10. **Provide your suggestion for an amount you would like the lien reduced to $_____. In the statement below, please provide your justification for requesting the lien reduction.**

I, _____, do hereby submit this petition in request for a reduction in the fine imposed and in support offer the following statement:

****I HEREBY UNDERSTAND AND ACKNOWLEDGE THAT BY SUBMITTING THIS APPLICATION FOR SETTLEMENT OF LIEN TO THE CITY, I WAIVE MY RIGHTS TO SEEK JUDICIAL REVIEW OF THE CITY COMMISSION'S DECISION WHETHER OR NOT TO REDUCE FINES AND IF SO, BY HOW MUCH****

Signed:

_____

Date:_____

Printed Name:_____

STATE OF _____
COUNTY OF
_____

SWORN TO (OR AFFIRMED) and subscribed before me this _____day of _____, 20____ by _____who is/is not personally known to me OR who has produced identification _____(type).

Date_____

_____
Notary Public

_____
Printed Signature

My commission expires:

LEAGLE™

CITY OF PALM BAY v. WELLS FARGO BANK, N.A.

No. SC11-830.

Email | Print | Comments (0)

View Case Cited Cases Citing Case

114 So.3d 924 (2013)

CITY OF PALM BAY, Appellant, v. WELLS FARGO BANK, N.A., Appellee.

Supreme Court of Florida.

May 16, 2013.

Attorney(s) appearing for the Case

James David Stokes, City Attorney, Andrew Patrick Lannon, Palm Bay, FL, and Steven L. Brannock, Tampa, FL, for Petitioner.

Matthew J. Conigliaro and Leah A. Sevi of Carlton Fields, P.A., St. Petersburg, FL, Michael K. Winston of Carlton Fields, P.A., West Palm Beach, FL, for Respondent.

Mark Partick Barnebey, Scott Ellis Rudacille, and Kurt Eugene Lee of Kirk Pinkerton, P.A., Sarasota, FL, for Amicus Curiae City of Palmetto.

Jamie Alan Cole and Susan Lanelle Trevarthen of Weiss Serota Helfman Pastoriza Cole & Boniske, P.L., Fort Lauderdale, FL, Edward G. Guedes of Weiss Serota Helfman Pastoriza Cole & Boniske, P.L., Coral Gables, FL, for Amicus Curiae Florida League of Cities.

Erin Jane O'Leary, Catherine Dwyer Reischmann, William Edward Reischmann, Usher Larry Brown of Brown, Garganese, Weiss & D'Agresta, P.A., Orlando, FL, for Amicus Curiae City of Casselberry, Florida, City of Palm Coast, Florida, and City Winter Park, Florida.

Heather M. Christman of Christman Law, P.L., Winter Haven, FL and Stephen Russell Senn of Peterson & Meyers, P.A., Lakeland, FL, for Amicus Curiae Peter and Laurie Pepe and Port Malabar Country Club, Inc.

Alan Beaumont Fields, Tallahassee, Florida and Homer Duvall, III, St. Petersburg, FL, for Amicus Curiae Florida Land Title Association.

Virginia Bullerman Townes and Carrie Ann Wozniak of Akerman Senterfitt, Orlando, FL, for Amicus Curiae Florida Bankers Association.

CANADY, J.

In this case we consider whether a municipal ordinance may validly establish superpriority status for municipal code enforcement liens. In *City of Palm Bay v. Wells Fargo Bank, N.A.*, 57 So.3d 226 (Fla. 5th DCA 2011), the Fifth District Court of Appeal concluded that such an ordinance superpriority provision is invalid because it conflicts with a state statute and that the City's lien accordingly did not have priority over the lien of Wells Fargo's mortgage that was recorded before the City's lien was recorded. Palm Bay sought review, and we accepted jurisdiction based on the Fifth District's certification of the following question of great public importance:

> Whether under Article VIII, section 2(b), Florida Constitution, section 166.021, Florida Statutes and Chapter 162, Florida Statutes, a municipality has the authority to enact an ordinance stating that its code enforcement liens, created pursuant to a code enforcement board order and recorded in the public records of the applicable county, shall be superior in dignity to prior recorded mortgages?

City of Palm Bay v. Wells Fargo Bank, N.A., 67 So.3d 271, 271 (Fla. 5th DCA 2011) (mem.).

On appeal, the City argues that the ordinance superpriority provision is within the "broad home rule powers" of the City. Petitioner's Brief on the Merits at 5, *City of Palm Bay v. Wells Fargo Bank, N.A.*, 114 So.3d 924, 2013 WL 2096257 (Fla. 2013). The City contends that because the Legislature has made certain exceptions to the general rules governing the priority of liens, municipalities have the power to likewise make exceptions. For the reasons we explain, we conclude that the Fifth District correctly decided that the ordinance superpriority provision is invalid. Accordingly, we answer the certified question in the negative. Before explaining our conclusion, we will review the pertinent provisions of the Palm Bay ordinance, the constitutional and statutory provisions relevant to the City's exercise of power, and the statutory framework governing the priority of interests based on recorded instruments.

I. BACKGROUND

City of Palm Bay Ordinance 97-07 provides for the operation of the City's Code Enforcement Board and contains the following superpriority provision:

> Liens created pursuant to a Board order and recorded in the public record shall remain liens coequal with the liens of all state[,] county[,] district[,] and municipal taxes, superior in dignity to all other liens[,] titles[,] and claims until paid, and shall bear interest annually at a rate not to exceed the legal rate allowed for such liens and maybe foreclosed pursuant to the procedures set forth in Florida Statutes, Chapter 173.

City of Palm Bay, Ordinance No. 97-07, § 1 (1997).

[114 So.3d 927]

Chapter 162, Florida Statutes (2004), contains the Local Government Code Enforcement Boards Act. Section 162.03, Florida Statutes (2004), authorizes municipalities to establish by ordinance local code enforcement boards. Section 162.09(3), Florida Statutes (2004), provides that "[a] certified copy of [a code enforcement] order imposing a fine, or a fine plus repair costs, may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator." The Act contains no provision expressly authorizing municipalities to establish superpriority for such liens.

Article VIII, section 2(b), Florida Constitution, contains a general provision relating to the exercise of municipal powers: "Municipalities shall have governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes *except as otherwise provided by law.*" (Emphasis added). Section 166.021, Florida Statutes (2004), contains general provisions governing the exercise of municipal powers under the framework established in article VIII, section 2(b). Section 166.021(1) states: "As provided in s. 2(b), Art. VIII of the State Constitution, municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law." Section 166.021(3) provides in pertinent part as follows:

> The Legislature recognizes that pursuant to the grant of power set forth in section 2(b), Art. VIII of the State Constitution, the legislative body of each municipality has the power to enact legislation concerning any subject matter upon which the state Legislature may act, except:
>
> ....
>
> (c) Any subject expressly preempted to state or county government by the constitution or by general law....

The priority of interests in real estate under Florida law is generally determined by the operation of three statutes. Section 28.222(2), Florida Statutes (2004), requires the clerk of the circuit court to record instruments in the official records and to "keep a register in which he or she shall enter at the time of filing the filing number of each instrument filed for record, the date and hour of filing, the kind of instrument, and the names of the parties to the instrument." Section 695.11, Florida Statutes (2004), provides that "[t]he sequence of [official register numbers required under section 28.222] shall determine the priority of recordation" so that "[a]n instrument bearing the lower number in the then-current series of numbers shall have priority over any instrument bearing a higher number in the same series." The legal significance of priority of recordation comes into play in the context of the rule established in section 695.01(1), Florida Statutes (2004), which provides as follows: "No conveyance, transfer, or mortgage of real property, or of any interest therein... shall be good and effectual in law or equity against creditors or subsequent purchasers for a valuable consideration and without notice, unless the same be recorded according to law." [1]

[114 So.3d 928]

The Legislature has, however, provided separately for the priority of certain liens over the priority established under chapter 695. For example, section 197.122(1), Florida Statutes (2004), provides that "[a]ll taxes imposed pursuant to the State Constitution and laws of this state shall be a first lien, superior to all other liens." Similarly, section 170.09, Florida Statutes (2004), provides that special assessment liens are "coequal with the lien of all state, county, district, and municipal taxes, superior in dignity to all other liens, titles, and claims, until paid."

II. ANALYSIS

Based on the provisions of article VIII, section 2(b), Florida Constitution, and the related provisions in section 166.021, we have acknowledged that "[i]n Florida, a municipality is given broad authority to enact ordinances under its municipal home rule powers." *City of Hollywood v. Mulligan*, 934 So.2d 1238, 1243 (Fla.2006). We have also stated that — as is recognized in section 166.021 — "a municipality may legislate concurrently with the Legislature on any subject which has not been expressly preempted to the State." *Hollywood*, 934 So.2d at 1243. But we have never interpreted either the constitutional or statutory provisions relating to the legislative preemption of municipal home rule powers to require that the Legislature specifically state that the exercise of municipal power on a particular subject is precluded. Instead, we have held that "[t]he preemption need not be explicit so long as it is clear that the legislature has clearly preempted local regulation of the subject." *Barragan v. City of Miami*, 545 So.2d 252, 254 (Fla.1989). We have also recognized that where concurrent state and municipal regulation is permitted because the state has not preemptively occupied a regulatory field, "a municipality's concurrent legislation must not conflict with state law." *Thomas v. State*, 614 So.2d 468, 470 (Fla.1993).

The critical phrase of article VIII, section 2(b) — "except as otherwise provided by law" — establishes the constitutional superiority of the Legislature's power over municipal power. Accordingly, "[m]unicipal ordinances are inferior to laws of the state and must not conflict with any controlling provision of a statute." *Thomas*, 614 So.2d at 470. When a municipal "ordinance flies in the face of state law" — that is, cannot be reconciled with state law — the

ordinance "cannot be sustained." *Barragan,* 545 So.2d at 255. Such "conflict preemption" comes into play "where the local enactment irreconcilably conflicts with or stands as an obstacle to the execution of the full purposes of the statute." 5 McQuillin Mun. Corp. § 15:16 (3d ed. 2012).

Here, it is undisputed that the Palm Bay ordinance provision establishes a priority that is inconsistent with the priority established by the pertinent provisions of chapter 695. In those statutory provisions, the Legislature has created a general scheme for priority of rights with respect to interest in real property. Giving effect to the ordinance superpriority provision would allow a municipality to displace the policy judgment reflected in the Legislature's enactment of the statutory provisions. And it would allow the municipality to destroy

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rights that the Legislature established by state law. A more direct conflict with a statute is hard to imagine. Nothing in the constitutional or statutory provisions relating to municipal home rule or in the Local Government Code Enforcement Boards Act provides any basis for such a municipal abrogation of a state statute. The conflict between the Palm Bay ordinance and state law is a sufficient ground for concluding that the ordinance superpriority provision is invalid.

We categorically reject the City's argument that the legislative enactment of exceptions to a statutory scheme provides justification for municipalities to enact exceptions to the statutory scheme. No authority supports this argument. The power to create exceptions to a legislative scheme is the power to alter that legislative scheme. "Fundamental to the doctrine of preemption is the understanding that local governments lack the authority to craft their own exceptions to general state laws." 5 McQuillin Mun. Corp. § 15:18 (3d ed. 2012). Although municipalities generally have "the power to enact legislation concerning any subject matter upon which the state Legislature may act," § 166.021(3), Fla. Stat. (2004), in exercising their power within that scope municipalities are precluded from taking any action that conflicts with a state statute. In this context, concurrent power does not mean equal power.

III. CONCLUSION

The Fifth District correctly concluded that the superpriority provision of the Palm Bay ordinance is invalid because it conflicts with state law. We approve that determination and answer the certified question in the negative.

It is so ordered.

POLSTON, C.J., and LEWIS, QUINCE, and LABARGA, JJ., concur.

PERRY, J., dissents with an opinion, in which PARIENTE, J., concurs.

PERRY, J., dissenting.

The majority holds that the City of Palm Bay's home rule authority does not provide it with the authority to enact an ordinance providing code enforcement liens superior priority over prior recorded mortgages. Because I disagree that the ordinance irreconcilably conflicts with the mechanical recording statute provided in section 162.09, Florida Statutes (2004), or that the Florida Legislature has expressed a scheme "so pervasive as to evidence an intent to preempt the particular area," [2] I would find that the city's ordinance was properly enacted. Accordingly, I dissent.

The majority reasons that section 162.09(3) "contains no provision expressly authorizing municipalities to establish special priority for such liens." Maj. op. at 927. However, this is not the appropriate test to determine whether a municipality has exceeded its powers. The City of Palm Bay does not require the Legislature's express permission to act under its home rule powers. Section 166.021(1) states in relevant part that "municipalities... may exercise any power for municipal purposes, except when expressly prohibited by law." Further, section 166.021(3)(c) provides that the municipality has the power to enact legislation concerning any subject matter upon which the Legislature may act except "[a]ny subject *expressly* preempted to state or county government by the constitution or by general law...." (Emphasis added). Thus, it is not whether the Legislature has expressly authorized municipal power, but whether such power

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has been expressly prohibited. Here, there has been no express preemption that would prohibit the City's action.

Because the language contained in sections 162.09, 695.11, and related provisions does not expressly conflict with the ordinance, the City was within its authority to enact the ordinance. The majority avoids this outcome by relying on a single line from this Court's decision in *Barragan v. City of Miami,* 545 So.2d 252, 254 (Fla. 1989), stating, "[t]he preemption need not be explicit so long as it is clear that the legislature has clearly preempted local regulation of the subject." Maj. op. at 928. The majority's reliance on *Barragan* here is misguided and misleading.

Barragan concerned an ordinance that permitted the City to deduct workers' compensation benefits from an employee's pension benefits in contradiction to the provisions of section 440.21, Florida Statutes (1987). Because the workers' compensation scheme outlined in chapter 440 explicitly applied to every employer and employee working in the state, the City's ordinance was expressly preempted by the statute. *See Barragan,* 545 So.2d at 254 (citing § 440.03, Fla. Stat. (1987)). In *Barragan,* Chief Justice Ehrlich emphasized that, "The city should not be permitted to do indirectly that which it cannot do directly." *Id.* at 255 (Ehrlich, C.J., concurring in result only). In contrast, here the mechanical recording statute does not provide an all-encompassing lien priority scheme. Clearly there is no express preemption of the subject matter concerning the City's ordinance. Yet, the majority maintains that "the Palm Bay ordinance is invalid because it conflicts with state law." Again, the majority applies the improper test.

Express preemption is not the same as implied preemption or conflict — this Court has previously distinguished between these concepts. *See Sarasota Alliance for Fair Elections, Inc. v. Browning,* 28 So.3d 880, 886, 888 (Fla.2010) (defining implied preemption as "when the legislative scheme is so pervasive as to evidence an intent to preempt the particular area, and where strong public policy reasons exist for finding such an area to be preempted by the Legislature" and conflict as "when two legislative enactments cannot coexist"); *see also Phantom of Brevard Inc. v. Brevard Cnty.,* 3 So.3d 309, 314 (Fla.2008); *City of Hollywood v. Mulligan,* 934 So.2d 1238, 1243, 1246-47 (Fla.2006) (internal quotations omitted). Here, section 166.021 provides that the City may act except where expressly preempted, not impliedly preempted or in conflict. These are distinct tests that should not be conflated. However, no matter the test applied here, there is no preemption evident in the statutes, neither explicit nor implicit.

While the majority recognizes that municipalities can legislate concurrently with the Legislature, *see* Maj. op. at 928 (citing *City of Hollywood,* 934 So.2d at 1242), the majority nevertheless "categorically rejects the City's argument that the legislative enactment of exceptions to a statutory scheme

provides justification for municipalities to enact exceptions to the statutory scheme." Maj. op. at 929. To read the statute and ordinance as unable to coexist ignores that the Legislature has not previously regarded the mechanical recording statute as a pervasive scheme without exemptions. *See* § 170.09, Fla. Stat. (2004) (providing lien priority and superiority for non-home rule municipality special assessments); § 197.552, Fla. Stat. (2004) (providing superiority for tax deeds except to municipal liens); § 718.116(5)(a), Fla. Stat. (2004) (providing superior lien priority for condominium assessments); § 713.07(2), Fla. Stat. (2004) (providing lien priority for construction liens). Additionally, lien priority

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can be altered by contract. Likewise, courts have recognized liens with superior priority despite their inferior filing dates. In *Gailey v. Robertson,* 98 Fla. 176, 123 So. 692 (Fla.1929), this Court found that a "mortgagee has no greater vested right ... than the fee simple owner and the rights of both must yield alike to the sovereign power when exercised to impose proper and lawful taxes." *Id.* at 179, 123 So. 692. The Court accordingly found that the mortgage held by Gailey was not prior in dignity to the lien claimed by the city of Winter Haven, despite its prior recording date. *Id.* at 177, 123 So. 692. In *First Nationwide Mortg. Corp. v. Brantley,* 851 So.2d 885 (Fla. 4th DCA 2003), the Fourth District found that a city lien was not superior to the mortgage because it "was not the result of municipal services, special assessments or any other type lien covered under section 23-68 of the City's Code of Ordinances." *Id.* at 887.

I would find that the Legislature has therefore not expressed a pervasive scheme — the statutes on the issue are scattered and separately enacted. Because the Legislature has provided several exemptions to the "first in time" rule, the City may likewise legislate such a rule under its home rule authority. *See Wyche v. State,* 619 So.2d 231, 238 (Fla.1993) ("Although municipalities and the legislature may legislate concurrently in areas not expressly preempted to the state, a municipality's concurrent legislation may not conflict with state law.").

I would likewise find that there is nothing in section 695.11 that expressly preempts the City of Palm Bay's ordinance. As described in *Argent Mortgage Co. v. Wachovia Bank, N.A.,* 52 So.3d 796, 800 (Fla. 5th DCA 2010), section 695.11 is a "mechanism for determining the time at which an instrument was deemed to be recorded." Because there is no express limitation by section 695.11, The City of Palm Bay had authority under section 166.021 to enact the ordinance. Accordingly, I dissent.

PARIENTE, J., concurs.

FootNotes

1. The Fifth District states that section 695.11 "codifies ... the common law rule of first in time, first in right." *Palm Bay,* 57 So.3d at 227. Although it has no bearing on the preemption question at issue in this case, we note that this characterization of Florida law is misleading. The comment incorrectly leaves section 695.01(1) out of consideration and suggests that priority of recordation necessarily establishes priority of right. A thoughtful discussion of the operation of Florida law in determining priority of interests in real property is contained in *Argent Mortgage Co., LLC v. Wachovia Bank N.A.,* 52 So.3d 796 (Fla. 5th DCA 2010); *see also Van Eepoel Real Estate Co. v. Sarasota Milk Co.,* 100 Fla. 438, 129 So. 892 (1930).

2. *Sarasota Alliance for Fair Elections Inc. v. Browning,* 28 So.3d 880, 886, 888 (Fla.2010).

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NOTICE OF PUBLIC HEARING
CITY COMMISSION
CITY OF FERNANDINA BEACH

NOTICE IS HEREBY GIVEN that a Public Hearing is scheduled for **Tuesday, October 15, 2019, at 6:00 PM** in the City Commission Chambers, 204 Ash Street Fernandina Beach, Florida to consider the following application:

ORDINANCE 2019-23

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, REGARDING AUTHORITY TO SATISFY CODE ENFORCEMENT AND OTHER LIENS AND GENERALLY CODE ENFORCEMENT BOARD; REPEALING SECTION 1-13, MUNICIPAL LIEN PRIORITY, DUE TO COURT RULING PROVIDING THAT MUNICIPAL LIENS ARE NOT SUPERPRIORITY LIENS; CREATING SECTION 1-14 APPLICATION FOR SATISFACTION OF LIENS, REDUCTION OF FINES AND SETTLEMENT OF LIENS; AMENDING SECTION 2-386 REMOVAL OF MEMBERS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Interested parties may appear at said hearing and be heard as to the advisability of any action, which may be considered. Any persons with disabilities requiring accommodations in order to participate in this program or activity should contact 310-3115, TTY/TDD 711 or through the Florida Relay Service at 1-800-955-8771 at least 24 hours in advance to request such accommodation.

IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD/COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH HEARING, S/HE WILL NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

For information, please contact the Staff of the City Clerk's Office, 204 Ash Street, between the hours of 8:00 AM – 5:00 PM, Monday through Friday, (904) 310-3115.

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