

CITY OF ST. AUGUSTINE, FLORIDA

Code Enforcement, Adjustments and Appeals Board Meeting
December 11, 2018

The Code Enforcement, Adjustments and Appeals Board met in formal session at 3:00 P.M., Tuesday, December 11, 2018, in the Alcazar Room at City Hall. The meeting was called to order by Clyde M. Taylor, III, Chairman, and the following were present:

1. ROLL CALL

Clyde M. Taylor, III, Chairman
Martha Mickler, Vice Chairman
Noel Mahr
Cece Reigle
Dennis Wissel
Larry Weeks
Stephen Simmons

Staff Present:

John Cary, Esq., Assistant City Attorney
David Birchim, Director, Planning & Building Department
Richard Schauland, Building Official and Code Enforcement Manager
Curtis Boles, Code Enforcement Inspector
Robert van Mierop, Code Enforcement Inspector
Sandra Partin, Administrative Coordinator, Recording

The City staff was sworn in.

**2. APPROVAL OF MINUTES
(November 13, 2018)**

MOTION

Ms. Reigle moved to approve the minutes as presented. The motion was seconded by Mr. Wissel and approved by unanimous voice vote.

**3. DISCLOSURE OF EX-PARTE
COMMUNICATIONS**

All Board members disclosed they each had received, via hand delivery from

the respondent, photos of property for item 6 (a) that was on that days agenda.

4. VARIANCES/TREE REMOVAL

None.

**5. REVIEW OF PREVIOUSLY HEARD
CASES**

Item 5 (a) 2018-0386

**Patricia C. Poshva Trust
274 S. Matanzas Boulevard
City Code, Chapter 19, Section 19-4
Excessive growth of weeds and grass; downed dead tree on property.**

Mr. van Mierop reported the following:

- On November 9, 2018, he visited the site for inspection and found that the weeds and grass had been cut, and that the dead/downed trees had been removed.
- Crews working the property had found several large garbage cans, which were filled with typical household garbage, and that too had been removed.
- Staff was satisfied with the cleanup of the property.
- Photos showing the property to be in compliance with this Board's previous Order were taken and included in the packet material that was provided for that days meeting.
- Staff recommended the Board close the case for compliance and impose a fine and costs in the amount of \$2,150.00 for the abatement of the property.

Public comment was opened, however there was no response.

Ms. Reigle asked if the city placed the abatement out for bid, as the cost seemed high.

Mr. Schauland stated that the City received bids from three companies.

MOTION

Mr. Simmons moved to approve closing the case for compliance and imposing a fine in the form of a lien

for the cost of abatement as specified by the City. The motion was seconded by Mrs. Mickler and approved by unanimous voice vote.

6. REVIEW OF NEW CASES

Item 6 (a) 2018-0193

Betty Kalaidi

8 Newcomb Street

City Code, Chapter 19, Section 19-4

Property overgrown and littered with debris.

Mr. Boles reported the following:

- On April 2, 2018, staff received a complaint from Michael Kern, 15 Eastman Street, that the neighboring property had several dead trees in the back yard, with a large number of them dropping dead limbs on the north side of the fence area.
- The second issue was the presence of sheet metal material and dead branches on the north front of the property, which was visible from the public right-of-way. And that the property owner had allowed weeds and ferns to grow over the metal and dead branches.
- Neighbors have repeated called code enforcement to address the issue of the overgrown ferns, and many were in attendance to speak on the matter.
- Staff had researched ferns and weeds, and found that weeds were an undesirable plant. And

he added that ferns were an invasive plant.

- On April 19, 2018, staff posted the property with a doorknocker reminding the respondent to cut the ferns and/or grass. Shortly after that, the respondent was directed to remove all junk and debris, to include sheet metal and old dead wood that was leaning against the fence.
- On October 3, 2018, an Official Notice of Violation was sent via certified mail return receipt to the property owner, which was returned unclaimed. The notice gave the respondent 15 days from receipt to correct the violation, stipulating that a fine up to \$250 per day may be imposed by this Board.
- On October 26, 2018, staff received a complaint from Mr. Gribble, 2 Newcomb Street, regarding the piling of tin, wood and screening that was against his stockade fence. As well as the overgrowth of the ferns throughout the property.
- On November 14, 2018, staff posted the property with a Notice and Order, for the prohibited overgrowth of weeds and grass, which gave the respondent until November 29, 2018, to correct the violation or be placed on the agenda for the Code Enforcement, Adjustments and Appeals Board and possibly face fines up to \$250.00 per day. Photos of that posting was enclosed in the Board packets.

- On November 15, 2018, an Official Notice of Hearing in response to the violation, was sent via certified mail.
- On November 30, 2018, staff placed a Posting Affidavit of this days meeting at the property and with the City Clerk's office.
- Staff recommended that the Board find the property in violation and allow respondent until December 24, 2018, for the property to be brought into compliance or a fine of \$250 per day, and each day thereafter, be imposed. Staff also requested that a compliance inspection be allowed after December 25, 2018.
- He then presented photos that had been taken earlier that day, which showed the current condition of the property with the violations remaining.
- He stated that neighbors were present to give testimony.

Mr. Taylor asked what violations remained since the Notice of Violation was sent and since the photos had been taken.

Mr. Boles explained that the property was in violation of City Code, Chapter 19, Section 19-4, for the overgrowth of weeds and ferns, sheet metal material along the fence, and the downed limbs/wood. He then gave a description of the photos that had been provided in their packet, noting that the respondent had allowed that portion of the property

to become overgrown to cover the violations. He also explained that the respondent's property was posted with no trespassing, which prohibited staff from entering without permission from the respondent.

Mr. Wissel asked staff what happened during the period of April 19, 2018 to October 23, 2018, what was going on during that time relative to the case. As it appeared staff had given a lot of leave way to the respondent.

Mr. Boles responded that staff had given a lot of leave way to the respondent, that he had visited the property routinely to observe whether there were any change with regard to the violations. That his communications were in the form of notices provided by the doorknocker, the Official Notice of Violation, and verbal communication. And he stated that direction had been given to the respondent of what was required to bring the property into compliance.

Mr. Simmons asked for clarity on testimony given with regard to communications with the respondent. Explaining that he was trying to get a timeline, and respectfully asked what staff was seeking from respondent. He then directed comment to the Chairman, stating that as he read the code, the violation began when the notice was placed on the fence, and that he believed it to be a repeat violation and the violation to have run for over 150 days. And he asked staff to explain

Code Enforcement's procedure of complaints that are received.

Mr. Boles responded that he visited the property, had taken photographs, and posted the property with the notice to clean the property. And he explained Code Enforcement's process when receiving citizen complaints.

Mr. Taylor replied that the Board would first have to find the property in violation before the property could be a repeat violation.

Mr. Mahr commented that the violation was at the discretion of the code inspector.

Mr. Schauland reported that over the summer, Ms. Kalaidi had come into the Planning & Building Department a few times to ask about the case being closed. In which he reported to her that the case could not be closed until the violations had been corrected. And he wanted it to be known that Mr. Boles was not aware of communications between different staff members and the respondent.

Mrs. Mickler asked staff how many pieces of sheet metal were present on the property.

Mr. Boles replied that there appeared to be one or two pieces of sheet metal, but without being able to enter the property he could not be certain.

B. J. Kalaidi, 8 Newcomb Street, was present and testified to the following:

- She presented photos of her property, a dangerous tree from the neighboring property, the neighboring properties vegetation against the fence, various properties around the city with fern plantings, and she gave a description of each photo.
- She presented a photo taken on December 5, 2018, of a cluster of clay pots and oyster shells around a tree in her yard, explaining that it was not debris, but planting/gardening material.
- She stated that her landscape was described as dense, which created hunting areas for owls and hawks to sustain their numbers in our city where habitat is lost.
- She explained that the vegetation against the fence was wild flowers and not weeds, nor was it touching the fence. That there may be a few limbs that had fallen from her neighbor's tree, but it was not touching the fence and staff could confirm that.
- That her neighbor had a large limb fall on the fence and destroyed it, that it landed in her yard and she left it to decompose. And that she tried not to touch her neighbor's fence.
- In August 2016, Hurricane Matthew took her large oak tree. It took her a while to remove the tree, but the stump remained and she planted ferns around it.

- On December 28, 2016, 10 Newcomb placed a fence constructed of rusty metal roofing material.
- She explained that the piece of sheet metal that was on her property was to prevent animals from entering.
- That she routinely checked with staff about violations within the city to be sure that the city be maintained as nicely as the Board member's properties were.
- She wished it to be on the record what was going on in their neighborhood, and that she would like to have the opportunity to rebut what may be said by her neighbors during public comment.
- She commented that one of her neighbors and his wife would likely speak to the Board and she went into detail about some of the personal interactions and attacks by her neighbors.

Mr. Taylor interrupted the respondent stating that he understood through testimony there was a history within the neighborhood. But staff had brought this case before the Board, and they would be opening up public comment. He then directed the audience that wished to speak, asking that they keep their comments to the violation, as this Board would be hearing testimony and not complaints.

Mr. Mahr asked the respondent if Mr. Boles would be permitted to enter the property for inspection, so as to place

this matter to rest and bring the property into compliance.

Ms. Kalaidi stated that if she were present, she would allow Mr. Boles to enter the property.

Public comment was opened.

Elliott Gribble, 2 Newcomb Street, was present and testified to the following.

- That he did not have issue with the respondent's grass.
- That he had the fence placed because of the strange nature of the respondent.
- That a large Oak tree on his property had dropped a limb onto her property, and he did not enter her property to clear it. But he had helped her out with removing a downed/dead tree and limbs.
- That she piled the wood against his fence and placed sheet metal material against the fence as well.
- He explained that she had piled debris against the fence to deter cats from entering her property. And that she had called the County Humane Society to set traps for the cats.
- He believed all of the wood was still on her property and that she had allowed the weeds to grow over it.

- He believed the metal had been removed with the help of the City, which he appreciated.
- He commented to the signs that were placed in the neighborhood, adding that he knew she had issues but was not concerned with that. That his issue was with the items that were placed against his fence.

Mr. Simmons asked if the sheet metal and the other rubbish had been removed.

Mr. Gribble testified that the sheet metal was removed, however he could not testify to the other items as he was unable to enter her property.

Amanda Batel, 12 Newcomb Street, was present and testified to the following:

- That she and her husband had helped the respondent in the past with cleaning downed branches, and offered to help with cleaning the property, but she ignores her neighbors and refuses any help. And in return she called the police on their son for having a basketball hoop.
- That the respondent goes out of her way to disrupt the neighborhood, and that was why the neighbors had made signs about her.

Sarah Balok, 10 Newcomb Street, was present and testified to the following:

- That she was the owner of the sheet metal fence produced in photos.
- She understood this was a code enforcement hearing and did not wish to waste everyone's time with the neighborhood issues.
- That she was a single mother, that she had remodeled her house and did not have money for a fence. But because of the behavior of the respondent, she had to place an eight foot fence as she was concerned for her daughter's safety. And she explained that was the reason the fence had been constructed from metal roof materials.

Liam Welch, 9 Newcomb Street, was present and testified to the following:

He presented photos of the respondent's front property ferns. And he explained that the signs in the neighborhood were instigated by the respondent.

Keith Reams, 13 Eastman Street, was present and testified to the following:

- He backed up the previous gentlemen's statement of ferns, as he had ferns in his yard and kept them maintained.
- He then referenced the "junk yard" sign and commented that it should be reflective of Ms.

Kalaidi's property. That her neighbors maintained their properties, and were all harassed by Ms. Kalaidi.

Michael Kern, 13 Eastman, was present and testified to the following:

- That he lived behind the respondent, that he had been harassed repeatedly about his trash cans.
- That the "junk yard" sign was not a true reflection of the neighboring property, that they had done a beautiful job in rehabilitating the neighboring home.
- And he commented that the respondent harassed not only resident's in their neighborhood, but city wide.
- And he raised the question of how much tax money was wasted by the frivolous complaints made by the respondent, and the amount of tax monies spent for the police being called.

Mr. Simmons asked Mr. Kern to describe the condition of the property when he initially filed the complaint.

Mr. Kern replied that when he made the complaint, there were two trees that were snapped in half by the hurricane, the grass was as high as the ferns, sheet metal was up against the fence, and there were numerous dead logs up against the fence, but he had not seen rodents or cats. And he added that the ferns from the street side had grown

above the fence. To date the grass has been mowed, but the area around the fence is overgrown and it is unknown if the debris still remained.

Ty Welsch, 8 Eastman Street, was present and testified to the following:

He spoke to a photo taken two days ago. That he had a history of code enforcement harassment as well, and asked what the best venue would be to address the harassment by the respondent. And he thanked the Board for listening to the residents

Mr. Taylor informed Mr. Welsch that this Board was not here to advise residents of what venue to seek, that this Board was comprised by residents of the city, who are not employed by the City, and heard cases that were brought before the board.

Public comment was closed.

Mr. Mahr commented that he would like to see Mr. Boles have access the property to conduct a walk on inspection.

Mr. Taylor spoke to the conditions cited, which he believed the code to prevent the property from becoming grossly overgrown and a blight to the community. So having Mr. Boles to enter the property would not be necessary as he did not believe there was evidence to prove there was junk/debris.

Mr. Mahr stated that the respondent agreed to allow staff to enter the property for inspection and that a 5 minute walk on inspection could put the case to rest.

Mr. Simmons interjected that a few years ago they heard a case of a property owner piling driftwood on the property and using the material to create a fence. And it becomes interpretive of this and explained that was the reason he had asked the gentlemen in public comment what the current condition of the property was. And he stated that with the amount of public show and comment claiming that the property was in violation, it would be prudent to continue the case and have the inspector report back. Testimony is that there are large tree branches that she was allowing to decompose.

Mr. Taylor commented that he had ferns growing on his property, and the public would be shocked to hear that a fern taller than 12" would be a violation.

Mrs. Mickler stated that testimony had been heard that the sheet metal had been removed.

Mr. Wissel stated that section 19-4 of the city code cited that it was unlawful for rubbish, trash, debris, dead trees or other unsightly matter to remain thereon. And added that he could address the tin and tree limbs, but other than that he could not speak to.

Ms. Reigle commented that this Board had recently ordered abatement of 274

S. Matanzas Boulevard for removal of downed limbs and dead tree. And she questioned whether the city or resident was required to maintain the city right-of-way.

Staff replied that the residents were to maintain the right-of-way in front of their property.

Mr. Taylor made comment that he liked the fence, that he liked ferns. That what was being talked about was trees and ferns. And that he did not believe there to be a violation.

Mr. Simmons asked the respondent to place into the record whether or not she would allow the inspector to enter the property to conduct an inspection.

Ms. Kalaidi responded that she would allow access for an inspection, and she asked for clarity of what the Board considered junk/debris. She then spoke to the signs being free speech and stated that they would remain.

Mr. Simmons addressed Ms. Kalaidi that the Board was only looking for whether she would authorize the City to enter the property for an inspection.

Ms. Kalaidi responded affirmative.

MOTION

Mr. Mahr moved to continue the case to January 15, 2019, to allow the code inspector to enter the property for inspection and report findings back to the Board. The motion was

seconded by Mr. Wissel and approved by the following voice vote:

Ayes: Mahr, Wissel, Mickler, Reigle, Weeks, Simmons.

Nays: Taylor

Item 6 (b) 2018-0607

Les Bons Temps Rouler, LLC 52 Spring Street

**Standard Housing Code 1997 Edition,
Chapter 305, Section 305.3
Unsecured and/or improper
installation of roof covering.**

Mr. Boles reported the following:

- On September 4, 2018, staff posted the property with a "Danger Do Not Enter" sign. The building appeared to be secured with plywood over the windows and doors.
- On September 11th and 12th, 2018, complaints were received about the buildings on the property having tin roof falling off and creating a danger.
- Staff conducted an inspection and found that two other buildings on the same parcel were showing signs of deterioration and a danger to the public.
- Within the Standard Housing Code, the building must be water tight, and rodent resistant. As seen in the attached photos, this property is in violation.

- Staff had been unsuccessful in attempts to contact the Agent of record.
- On September 21, 2018, an Official Notice of Violation was sent via certified mail, and delivery receipt card was returned with a signature date received of September 24, 2018.
- To date staff had no further communication with the already mentioned.
- A Posting Affidavit, for this days hearing, was placed at the property and the City Clerk's office on November 30, 2018.
- Staff recommended that the Board find the property in violation and allow the respondent until December 24, 2018, or a fine in the amount of \$250 per day be imposed. Staff also recommended the Board order staff to report back

Mr. Simmons raised concern with a property being declared to be an emergency, and then allowing 60-70 days for corrective action. And he gave an example that if a car was parked in front a fire hydrant, the car would not be allowed to remain, it would be towed. And questioned that should we not make sincere effort to locate the owner and have the unsafe condition corrected.

Mr. Boles responded that would be dependent on the severity of the emergency. And he gave an example of a recent house fire, where the property was posted and taped off, and the Fire

Marshall was involved. But as in this case, where there is loose roofing material, staff had attempted to make contact to address the conditions in a timely manner, but efforts do not always attain immediate results.

Mr. Taylor asked for clarity that this was being cited with violation for a roof that does not meet the code, and what the fine structure was for not complying with that code.

Mr. Birchim advised that the fine would be up to \$250 per day.

Mr. Cary explained that the city code incorporated the building code by reference, and any violation would be to the code.

Mr. Taylor then confirmed with council and staff that any building code violation then would be rendered as unsafe.

Mr. Simmons stated that was the direction of his question where extended time was given, it was not necessarily a hazardous unsafe condition.

Mr. Boles explained that the complainant had suffered damage to her car from a fallen piece of sheet metal. That she was not seeking legal restitution, but would like code enforcement to address the issues.

Mr. Simmons asked that staff consult with city council of whether the roof could be cited as a nuisance and not a housing code/building code.

Mr. Cary responded that the City Manager and the Building Official would have to make a declaration of the property being a nuisance.

Mr. Schauland spoke to the prior permits and materials that were associated with the structure.

Public hearing was opened.

Linda Hobbs, 54 Spring Street.

- She differed with the collapsing building behind the main home, as it had a garage that would house 4 to 5 cars, that the roof was gone, and the block walls were leaning sideways.
- That the owner also had two other rental properties that were no longer rented, which the roofs were deteriorated and coming off.
- That she had sustained damage to two cars when roof debris had fallen.
- That the owner had been claiming for five to six years that he was going to repair the structures, but nothing had happened.
- That roof debris had blown off and been found a block away, and she personally had hauled off a truck load of fallen roof materials.
- She did not know the property owner, but neighbors had filed numerous complaints.
- In the past few years workers had stated what the plans were to the neighbors.

- That one of the buildings had burned, and the other only had 110V. And vagrants were seen entering the property.

Mr. Taylor asked about the three buildings, and were they on the same lot.

Ms. Reigle commented that in looking at the tax record, it was unclear if the property had sold in 2016. And if so, whether the new owner had knowledge of the condition of the property.

Ms. Hobbs replied that she was unaware of any sale of the property.

Jerry Wesley Hobbs, II, 54 Spring Street, was present and testified to the following:

- He stated that three years ago, a contractor, O'Steen, came in and left a business card and asked Mr. Hobbs to be a caretaker and watch over the property.
- That he had entered the home with the contractor and the floors were falling through.
- There was a lot of people coming and going, and windows were broken out.
- That they had asked the contractor to secure the roofing material before any storms came, but nothing was ever done.
- His girlfriend's car had been damaged by a piece of fallen roof material, but when he contacted the contractor to report the

damage he never received a response.

- That every neighbor had received some damage from the failing roof material.

Public hearing was closed.

Ms. Reigle asked about the ownership.

Mr. Simmons responded that the agent of record was an attorney.

Mr. Mahr requested that Mr. Hobbs provide Mr. Boles with the contact information that he had for the contractor.

MOTION

Mr. Simmons moved to approve order finding violation and to commence with fine of \$250 beginning December 11, 2018, and each day thereafter of continued violation. The motion was seconded by Mr. Taylor and approved by unanimous voice vote.

7. CITY ATTORNEY ITEMS

None.

8. OTHER BUSINESS

The Board approved the drafted 2019 Meeting Schedule.

Mr. Birchim presented Mr. Wissel and Mr. Taylor with a letter of appreciation and a city coin as a token of appreciation for their service on this Board and to their community, as their terms were expiring.

9. REVIEW OF CONFLICT STATEMENTS FROM PREVIOUS MEETING

None.

10. ADJOURNMENT

Meeting was adjourned at 5:01 P.M.

Martha Mickler, Chairperson

Sandra Partin, Administrative Coordinator