

MINUTES OF MEETING
DANIA BEACH CITY COMMISSION
ABATEMENT HEARING
THURSDAY, MARCH 19, 2009 - 6:00 P.M.

1. Call to Order

Vice-Mayor McElyea called the meeting to order at 6:00 p.m.

2. Roll Call

Present:

Vice-Mayor:	C.K. "Mac" McElyea
Commissioners:	Bob Anton
	Walter Duke
	Albert C. Jones
City Manager:	Bob Baldwin
City Attorney:	Tom Ansbro
City Clerk:	Louise Stilson
Code Attorney:	Tim Ryan

Absent:

Mayor:	Anne Castro
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Commissioner Jones motioned to excuse the absence of Mayor Castro; seconded by Commissioner Anton. The motion carried unanimously.

3. Abatement Requests

- 3.1 Request for Neville Crooks, for an extension of time to pay the balance of his lien abated to \$40,000.00 on November 20, 2008. Property located at 2400 SW 58th Manor, Case #06-1630 (#0232-22-0010)

Attorney Tim Ryan advised this request is for an extension of time to pay the \$40,000.00 fine imposed by the City Commission on November 20, 2008. He further noted that he has already made a partial payment of \$10,000.

Commissioner Anton thought that during these difficult economic times, we should grant Mr. Crooks some additional time, provided he is committed to pay his debt. He suggested a payment plan to accommodate both the City and Mr. Crooks.

Neville Crooks, property owner, asked for an extension of time to enable him to raise enough money to pay the fine.

Attorney Ryan responded for Commissioner Jones that, in order to establish a payment formula, it would be necessary to review Mr. Crooks' income.

Discussion followed among the Commission regarding the length of time it would take for Mr. Crooks to pay his debt in full, considering his current financial situation.

Commissioner Anton motioned for the City Manager to negotiate a payment plan with Mr. Crooks; seconded by Commissioner Jones. The motion carried on the following 4-0 Roll Call vote:

Commissioner Anton	Yes	Commissioner Jones	Yes
Commissioner Duke	Yes	Vice-Mayor McElyea	Yes

3.2 Abatement Request for Livio Basso & Claudette Dionne-Basso, for property located at 2855 SW 58th Street, Case #07-1997 (#0232-17-0730) (*Continued from January 15, 2009 Abatement Hearing*)

Attorney Tim Ryan advised this case is for five violations: broken windows; windows lack fully operable hardware; building exterior is in disrepair; building exterior is deteriorated and discolored; and exterior surface of the structure is deteriorated and must be painted. The fine ran for 177 days for a total of \$17,849.50, including recording fees. The Special Magistrate recommended an abatement of the fine to \$2,500.00.

Martin J. Hanna, attorney representing the property owner, noted the notices were sent to the property address, however, the owner lives out of state. He noted that once they received notification, the violations were corrected. Attorney Hanna requested the fine be reduced to \$200.00.

Commissioner Jones confirmed with Attorney Ryan that if the respondent does not attend the formal hearing and the notices are returned to us "unclaimed", we conduct a Title Search, approximately 30 days after the hearing, which would give us more information, such as an alternate address.

Nick Lupo, Code Compliance Manager, noted that if the Title Search is done prior to contacting the violator, the City might not be able to recover those costs.

Commissioner Jones motioned to abate the lien to \$500.00, to be paid in 30 days; seconded by Commissioner Anton. The motion carried on the following 4-0 Roll Call vote:

Commissioner Anton	Yes	Commissioner Jones	Yes
Commissioner Duke	Yes	Vice-Mayor McElyea	Yes

3.3 Abatement Request for Henry Bowe, Jr., for property located at 4717 SW 35th Avenue, Case #07-1370 (#0230-04-0990)

Nick Lupo, Code Compliance Manager, asked for the case to be continued until the next meeting.

Commissioner Jones motioned to continue this case until the May 21, 2009 Abatement Hearing at 6:00 p.m.; seconded by Commissioner Anton. The motion carried unanimously.

3.4 Abatement Request for Terry Thomas, for property located at 301 NW 4th Avenue, Case #07-2144 (#0234-06-0130)

Attorney Tim Ryan advised this case is for eleven violations: damaged or deteriorated windows must be repaired or replaced; windows lack screens; building exterior surface is in disrepair; building foundation openings lack screens; the exterior surface of the structure is deteriorated and must be painted; the property is being used for rental purposes without an occupational license; electrical work was performed without building and zoning approval; and electrical work was performed without a permit. The fine ran for 142 days for a total of \$14,358.00, including recording fees. The Special Magistrate recommended an abatement of the fine to \$2,000.00.

Terry Thomas, property owner, noted that his son was shot and is currently in a nursing home in Panama City.

Nick Lupo, Code Compliance Manager, advised Mr. Thomas has provided proof of police and medical records related to his son's accident.

Commissioner Anton motioned to abate the lien to \$1,500.00, to be paid in 60 days; seconded by Commissioner Jones. The motion carried on the following 4-0 Roll Call vote:

Commissioner Anton	Yes	Commissioner Jones	Yes
Commissioner Duke	Yes	Vice-Mayor McElyea	Yes

3.5 Abatement Request for Performance Enterprises, Inc., for property located at 714 SW 4th Street, Case #07-0043 (#1203-36-0500)

Attorney Tim Ryan advised this case is for thirteen violations: vents need to be covered; exterior surface of the structure is deteriorated and must be painted; a portion of the yard lacks vegetation; all unattended vegetation must be cut; there is garbage, trash and litter on the property and swale area; property is being used for rental purposes without an occupational license; building numbers need to be displayed; and the swale needs to be sodded. The fine ran for 583 days for a total of \$58,458.00, including recording fees. The Special Magistrate recommended an abatement of the fine to \$10,000.00.

Theresa Smith, on behalf of Performance Enterprises, Inc., noted she had six surgeries and has spent a lot of time hospitalized in New York therefore, she did not receive notice of the violations until recently. She advised this is a rental property which is currently vacant.

Nick Lupo, Code Compliance Manager, noted for the record that notices were served and signed by Ms. Smith's son and herself. He further indicated that the respondent brought the property

into compliance and has provided receipts of her out of pocket expenses to achieve this, for a total of \$49,079.98.

Commissioner Jones confirmed with Mr. Lupo that the City's costs involved in this case, including attorney's fees, are approximately \$2,500.00

Ms. Smith noted she is facing foreclosure on her own home and does not have the money to pay this fine at this time. She added that she used all of her savings to make this place look nice and decent.

Commissioner Anton motioned to abate the lien to \$10,000.00, to be paid in 90 days. The motion died for lack of a second.

Commissioner Jones motioned to abate the lien to \$6,000.00 to be paid in six months; seconded by Commissioner Duke. The motion carried on the following 3-1 Roll Call vote:

Commissioner Anton	No	Commissioner Jones	Yes
Commissioner Duke	Yes	Vice-Mayor McElyea	Yes

3.6 Abatement Request for 40-44 NFH, LLC, for property located at 44 N. Federal Highway, Case #07-1265 (#0234-01-1790)

City Attorney Ansbro noted that this property, which is located next to the Pirate's Inn, was demolished about two months ago. He advised that the property owner, Mr. Alan Ojeda, was told by our former Community Development Director, Laurence Leeds, that there were plans to widen Federal Highway and that the setbacks on his property might be affected. Mr. Leeds told Mr. Ojeda to hold any action in abeyance, until a decision had been reached by the government agency in charge of this plan. City Attorney Ansbro noted that Mr. Ojeda owns several properties in the City and has substantial commitments to the community. He further stated that there have been factual issues and timelines and the violations are not Mr. Ojeda's fault because he relied on the City telling him to wait. City Attorney Ansbro recommended waiving any penalties or costs in this case.

Commissioner Duke motioned to abate the lien to zero, as recommended by the Special Magistrate; seconded by Commissioner Anton. The motion carried on the following 4-0 Roll Call vote:

Commissioner Anton	Yes	Commissioner Jones	Yes
Commissioner Duke	Yes	Vice-Mayor McElyea	Yes

3.7 Abatement Request for My Darling, LLC, for property located at 4433 Stirling Road, Case #07-2287 (#0136-03-0160)

Attorney Tim Ryan noted the petitioner requested a continuance until the May 21, 2009 Abatement Hearing.

Commissioner Jones motioned to continue the request until the May 21, 2009 Abatement Hearing at 6:00 p.m.; seconded by Commissioner Duke. The motion carried unanimously.

3.8 Abatement Request for Shamsideen Obafemi Laguda, for property located at 715 SW 6th Street, Case #06-1802 (#1203-34-0770)

Attorney Tim Ryan advised this case is for 9 violations: exterior surface of the structure is deteriorated and must be painted; parking area is in disrepair; a portion of the yard lacks live vegetative cover; there is trash and debris on the premises which must be removed; swale lacks grass sod or other live vegetative cover; and the sidewalk adjacent to the property has breaks and is in disrepair. The fine ran for 611 days for a total of \$91,808.00, including recording fees. The Special Magistrate recommended an abatement of the fine to \$45,000.00.

Nick Lupo, Code Compliance Manager, noted that this is a duplex rental property which was in very poor condition in 2006, when it was originally cited. He indicated that when the Final Order was issued, the respondent thought everything was taken care of and never contacted us again, until Attorney Ryan's office advised him of the intent to foreclose. At that point, the respondent communicated with our office to try to rectify the remaining violations.

Emanuel Denzel, property manager, noted the owner lives in Atlanta, Georgia. He explained that he has been managing the property for about three years. Mr. Denzel stated that he had brought the property into compliance once the sidewalk issue was resolved with the City. He said that there was a communication breakdown. Mr. Denzel advised that the owner had already spent \$11,750.00 on repairs and that the property is currently vacant.

Commissioner Anton noted that properties in disrepair bring down the value of the homes in the area and hurt the rest of the homeowners. He remarked that absentee landlords have the responsibility to maintain their properties in good condition for the benefit of the community.

Commissioner Anton motioned to abate the lien to \$45,000.00, as recommended by the Special Magistrate, to be paid in 60 days; seconded by Commissioner Jones. The motion carried on the following 4-0 Roll Call vote:

Commissioner Anton	Yes	Commissioner Jones	Yes
Commissioner Duke	Yes	Vice-Mayor McElyea	Yes

Nick Lupo, Code Compliance Manager noted that when the compliance deadline is reached, even if the respondent has not contacted our office, we personally visit the property and take photographs to prove what action has been taken on the part of the owner.

4. Adjournment

Vice-Mayor McElyea adjourned the meeting at 6:47 p.m.

ATTEST:

CITY OF DANIA BEACH

LOUISE STILSON, CMC
CITY CLERK

ANNE CASTRO
MAYOR-COMMISSIONER

Approved: April 14, 2009