

CITY OF ST. AUGUSTINE, FLORIDA

Code Enforcement, Adjustments and Appeals Board Meeting
January 8, 2008

The Code Enforcement, Adjustments and Appeals Board met in formal session at 3:00 P.M., Tuesday, January 8, 2008, in the Alcazar Room at City Hall. The meeting was called to order by Irene Arriola, Chairperson, and the following were present:

1. ROLL CALL

Irene Arriola, Chairperson
William Rosenthal
Gary McMahan
Cathy Brown
Sheldon Smith
Rhett Davis

Absent: Enid Hurst (Excused)

Robin Upchurch, Esq., Assistant City Attorney
Mark Knight, Director, Planning & Building Department
Nick Andrade, Building Official
Curtis Boles, Code Enforcement Inspector
Sharon O'Keefe, Administrative Coordinator, Recording

The City staff was sworn in.

2. APPROVAL OF MINUTES
(December 11, 2007)

MOTION

Mr. Rosenthal moved to approve the minutes. The motion was seconded by Ms. Brown and approved by a unanimous voice vote.

3. DISCLOSURE OF EX-PARTE
COMMUNICATIONS

(None)

4. VARIANCES/TREE REMOVAL

(None)

5. REVIEW OF PREVIOUSLY HEARD
CASES

Item 5(a) **2007-4254**

Florida East Coast Railway

Infinity Outdoor

City Code, Chapter 3, Section 23 (k) (1)

Unauthorized repair of Non-Conforming sign

Mr. Andrade stated as follows:

- On September 11, 2007 the case was found in violation and a fine of \$250 per day, per sign, was ordered
- The Respondent filed an appeal to Circuit Court
- The Respondent's Attorney, William McCormick, submitted a request for a stay or abatement of the fines during the appeal process

- Mr. Andrade expressed that staff was adamantly opposed to the request and recommended denial

Ms. Upchurch advised the board as follows:

- They could impose the fine
- They could reduce the fine
- They could delay recording the order
- A decision by the Circuit Court in favor of the Respondent would render the order null
- A decision for the City would support the fines which would have accrued and a foreclosure could take place after the statutory allotted time
- The Respondent would have an opportunity to request that the City Commission reduce the fine

William McCormick, representing Infinity Outdoor, addressed the Board.

- As requested by the Board, he presented a Limited Power of Attorney, as evidence that he had authority to represent Florida East Coast Railway
- He stated that he filed an appeal in Circuit Court on December 27, 2007
- He requested that the Board stay the fines until a decision was made by the Circuit Court
- He said the fine of \$250 per day per sign (\$750 a day) was excessive
- He disputed that there were three signs and argued that there were two, one was a back to back sign with two faces
- He stated that Florida Administrative code considered back to back signs as one sign

- He revealed that the annual revenues to CBS for advertising on the billboards were as follows:

- 460N \$11,071 or \$30.33 a day
- 460S \$10,170 or \$27.86 a day
- 510N \$17,809 or \$48.80 a day

- He suggested that the fines be reduced to match the revenues
- He asked the Board not penalize the Respondents for utilizing their rights to an appeal
- He stated that the appeal process could take six months to a year to be settled

Virginia Mall, Real Estate representative of CBS Outdoor, Sanford Florida, was sworn and testified the figures, submitted by Mr. McCormick, were authentic gross revenues from January 2007 through December 31, 2007.

Ms. Brown said it was not the Board's responsibility to protect the Respondent's investments; however, he wished to clarify Mr. McCormick's claim that there were only two signs.

Mr. Knight explained that there were three separate structures with three faces. He said the order was clear, and the fine applied to all faces for a total of \$750 per day.

Ms. Upchurch advised the Board to consider their options based on the following criteria:

- The gravity of the violation
- Any corrections made
- Previous violations

Ms. Upchurch reminded the Board of their options based on the criteria.

Mr. Knight explained that the respondents could have avoided a fine if they had properly applied for a building permit, which would have been denied, allowing for an appeal. He said they chose not to apply for the permit forcing the City to cite them for repairing a sign damaged more than 50%. He asked the Board not to reduce the fines. He further stated that the Respondent had alternative opportunities with City Commission to reduce the fines.

Mark Chambers, President of BMC Real Estate and Acquisitions for Florida East Coast (FEC) was sworn and stated the following:

- He managed all the billboards between Jacksonville and Miami on the FEC railway
- He stated the position of the FEC was to maintain all the billboards and not to take any down
- He said the signs provided a valuable service to the merchants and residents of St. Augustine

There was no public comment.

MOTION

Mr. Rosenthal moved to deny the request for stay/abatement and confirmed the fine of \$250 per day, per sign, (total of \$750 per day) would accrue from December 13, 2007 until the violation was corrected. The motion was seconded by Mr. McMahan and approved by a unanimous voice vote.

Item 5(b) 2007-4253

Annie Bell Green

157 Twine Street

City Code, Chapter 19, Section 19-3 & 4

City Code, Chapter 8, Section 8-301

Overgrown/littered- Unsafe building

Mr. Boles read his report:

- The case was found in violation on August 14, 2007
- On November 13, 2007 the Board imposed a fine in the amount of \$6,500 and an Order Approving Abatement
- On December 19, 2007 the property was abated by M. J. Tractor works for a cost of \$2,200

Mr. Boles recommended a lien in the amount of \$2,200 be imposed and the case be closed for compliance.

There was no public comment.

MOTION

Mr. Rosenthal moved to impose an Order imposing Penalties and Lien, in the amount of \$2,200, for the cost of abatement, and an Order Closing for Compliance. The motion was seconded by Ms. Brown and approved by a unanimous voice vote.

6. REVIEW OF NEW CASES

(None)

7. CITY ATTORNEY ITEMS

(None)

8. OTHER BUSINESS

Mr. Knight explained that closing a case for compliance with City Code did not negate liens previously imposed.

Ms. Arriola clarified that whenever a case was closed for compliance it should be restated that any liens imposed still stood until resolved.

MOTION

Mr. Rosenthal moved to confirm that the \$6,500 lien, imposed on 157 Twine Street on November 13, 2007 was still outstanding. The motion was seconded by Ms. Brown and approved by a unanimous voice vote.

9. REVIEW OF CONFLICT STATEMENTS FROM PREVIOUS MEETING

(None)

10. ADJOURNMENT

There being no additional business the meeting was adjourned at 4:05 P.M.

Irene Arriola, Chairperson

Sharon O'Keefe, Administrative Coordinator