

TAB 5

POINT PAPER
CEB HEARINGS, MARCH 29, 2011
CEB 11-04

Daniel W. Lynch & Cynthia J. Lynch, 316 Crescent Court East, Bradenton, Florida:

The property that is the subject of this code enforcement case is located at 1405 11th Avenue West, Palmetto, Florida, PI# 26763.0005/2, Township 34S, Range 17E, Section 14. The Respondents, Daniel W. Lynch and Cynthia J. Lynch, are identified as the owners of the property through the Manatee County Property Appraiser's and Tax Collector's web sites.

A foreclosure case initiated by Wells Fargo Bank NA, case number 2008-CA-005830, is currently pending in the Manatee County Court. The docket entry of March 14, 2011 lists a rescheduled foreclosure sale date of April 20, 2011. This house has been vacant since 2008.

Prior to the current case, multiple code enforcement actions had been initiated but not presented for CEB hearings. NOVs were issued on August 22, 2008 and October 30, 2008. In both cases, bank services cleared the violations – overgrowth, fence, pool and unsecured doors. On April 9, 2009, a NON was issued for overgrowth and the City Parks Department cleared the overgrowth issues through September 2009. City liens covering the mowing and code enforcement costs have been filed against this property.

Security issues and two separate arson cases involving this property were brought to the attention of Wells Fargo on November 30, 2009, February 2, 2010 and March 23, 2010 respectively.

The present case was initiated on November 23, 2010 when a site visit revealed that vandals again broke the front and rear fences, and the pool cage had been partially dismantled for scrap aluminum. Wells Fargo was advised of the need to secure the property, and the Palmetto Police were alerted to the damage. During subsequent site visits in November & December 2010 and January 2011 various doors to the house were found open, and vandalism to the interior of the house continued. Wells Fargo was advised of these occurrences; repairing the fence, securing the house & clearing the accumulated debris were requested of Wells Fargo.

Wells Fargo cleared the overgrowth issues and secured the house during this period of time. However, the fence remained broken, permitting continued access to the rear yard & pool area. In addition, the pool now presented a child safety issue and mosquito breeding area due to the dismantled pool cage. New overgrowth issues developed, and accumulated debris remained in the front and rear yards. A Notice of Violation was issued on February 17, 2011, mailed certified and regular, and posted on the property and City Hall. This NOV was mailed to the Florida Default Law Group, the attorneys of record for the Plaintiffs in the foreclosure proceeding, and it was e-mailed to Wells Fargo.

Notice of this evenings CEB hearing was forwarded certified and regular mail to the Respondents on March 8, 2011. A copy was mailed to the Florida Default Law Group and e-mailed to Wells Fargo.

The nuisance issues and the violations of the Minimum Maintenance Standards cited in the Notice of Violation remain unresolved as of this time.

Recommendation:

It is recommended the Respondents, Daniel W. Lynch and Cynthia J. Lynch, be found in violation of the City of Palmetto Code of Ordinances as they pertain to nuisances and minimum maintenance standards, and that they be directed to bring the property into compliance within fourteen (14) days. It is further recommended that the City's costs for processing this case, plus any applicable recording fees, be assessed against the Respondents at this time.

Total Costs to the City as of March 22, 2011:

Code Enforcement Officers	9.83 hours @ \$40.00/hour = \$393.20
Administration Costs	1 hour @ \$35.00/hour = <u>35.00</u>
Total Costs	\$428.20



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**BEFORE THE CODE ENFORCEMENT BOARD
OF THE CITY OF PALMETTO, FLORIDA**

**CERTIFIED MAIL/RETURN RECEIPT REQUESTED
REGULAR MAIL**

CITY OF PALMETTO
A political subdivision of the
State of Florida
Petitioner

vs.

Case No. CEB 11-04

Daniel W. Lynch
Cynthia J. Lynch
316 Crescent Court East
Bradenton, Florida 34208-1736

Respondents:

ORDER IMPOSING FINE AND LIEN

Violation Location: 1405 11th Avenue West
Palmetto, Florida 34221

On April 26, 2011, the Code Enforcement Board (CEB) of the City of Palmetto conducted a duly noticed Public Hearing in regard to the above Respondent. Following receipt of sworn testimony and other evidence, the Board makes the following findings:

1. The Respondents were found in violation of the City of Palmetto Code of Ordinances at a hearing held on March 29, 2011. A copy of the Board's Order is attached hereto and incorporated herein as Exhibit "A".

2. The Order required the Respondent to comply with the Palmetto Code of Ordinances, as cited, by April 12, 2011. The Order was sent to the Respondent by Certified Return Receipt Requested U.S. Mail and Regular U.S. Mail on March 31, 2011.
3. The Respondent was notified in that Order that the Code Enforcement Board would hold a hearing on April 26, 2011, to determine whether the Respondent was in compliance with the Order, and if not, whether to impose a fine.
4. At the April 26, 2011 Hearing, the City of Palmetto Code Enforcement Director, Bill Strollo, testified that the Respondent had not complied with the Palmetto Code of Ordinances as ordered by the Administrative Order dated March 29, 2011.

CONCLUSIONS OF LAW

1. The hearing has been properly notified and convened. A quorum is present and voting.
2. Section 2-87 of the Code of Ordinances states that:
 - (2) In determining the amount of the fine, if any, the CEB shall consider the following factors:
 - a. The gravity of the violation;
 - b. Any actions taken by the violator to correct the violation;
 - c. Any previous violations committed by the violator.
3. The prior Administrative Order of this Board, dated March 29, 2011, was not complied with by the date set forth in the Administrative Order.
4. The Board has considered the three factors cited above in arriving at its determination to impose a fine.

ORDER

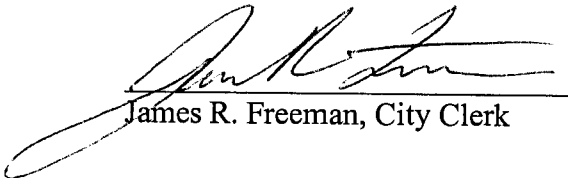
Based on the foregoing, the Code Enforcement Board imposes a fine of \$250.00 per day commencing April 13, 2011, and continuing until the violation is corrected. A certified copy of this Order shall be recorded in the Public Records of Manatee County and any other county

within the State of Florida where the Respondent has real or personal property and it shall thereafter constitute a lien upon any real or personal property owned by the violator. Upon petition to the circuit court by the City, such Order may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but such Order shall not be deemed to be a court judgment except for enforcement purposes. **A fine imposed pursuant to this Order shall continue with interest accruing until the violator comes into compliance, or until judgment is rendered in a suit to foreclose on a lien created herein, whichever occurs first.**

Date: April 27, 2011


Charles W. Leonard, Chair
Code Enforcement Board

Attest:


James R. Freeman, City Clerk