



CODE ENFORCEMENT BOARD SPECIAL MEETING MINUTES: THURSDAY, NOVEMBER 18, 2021

The City of Florence, Kentucky Code Enforcement Board met in special session on Thursday, November 18, 2021 at 10:00 a.m. in the Council Chamber of the Florence Government Center with Code Enforcement Board Chairman, Jim Johnson presiding.

CALL TO ORDER & ROLL CALL:

Chairman Johnson called the meeting to order and requested a roll call. Present were the following four (4) Board members: David Spille, Lance Howard, Rick Rowland, and Jim Johnson.

Also present: Thomas Nienaber, Assistant City Attorney; Bryce Rhoades, City of Florence Attorney; Melissa Kramer, City Clerk; Jeremy Kleier, Community Services Superintendent; Rodney Deno, Code Enforcement Officer; Mike Macaluso, Code Enforcement Officer; Randy Childress, Fire Marshal; Spencer Foreman, Videographer; and Police Officer Duncan. In the audience: Brandi Roundtree, Assistant City Clerk; Fire/EMS Chief, Rodney Wren; Fire/EMS Assistant Chief, Chris Miller; Andrew J. Poltorak, Attorney for Intergroup Pine Lake, Inc., contested case; David Gonzalez, contested case; Thomas Judd, observer; and WCPO 9 News.

SWEARING IN:

The Code Enforcement Officers were sworn in by Chairman Johnson.

CONTESTED CASE:

CITY OF FLORENCE VS. INTERGROUP PINE LAKE INC.:

Location of Violation: 101-109 Pinehurst Drive
Citation#: MM-2020-362; MM-2020-374; MM-2020-398; 21-2876-1; 21-2876-2; 21-2876-3; 21-2876-4; 21-2876-5; 21-2876-6; RC-2021-06

Location of Violation: 102-108 Pinehurst Drive
Citation#: MM-2020-357; MM-2020-369; MM-2020-387

Location of Violation: 110-118 Pinehurst Drive
Citation#: MM-2020-358; MM-2020-370; MM-2020-388; 21-2913-1; 21-2913-2; 21-2913-3; 21-2913-4

Location of Violation: 113-117 Pinehurst Drive
Citation#: MM-2020-363; MM-2020-375; MM-2020-399; 21-2912-1; 21-2912-2; 21-2912-3

Location of Violation: 121-125 Pinehurst Drive
Citation#: MM-2020-364; MM-2020-376; MM-2020-400

Location of Violation: 122-126 Pinehurst Drive
Citation#: MM-2020-359; MM-2020-371; MM-2020-389

Location of Violation: 7141 Spruce Drive
Citation#: MM-2020-365; MM-2020-378; 20-1779-3; 21-2915-1; 21-2915-2

Location of Violation: 7153 Spruce Drive
Citation#: MM-2020-366; MM-2020-377; 20-1780-3; 21-2914-1; 21-2914-2; 21-2914-3

Location of Violation: 7937 Dixie Highway
Citation#: MM-2020-353; MM-2020-368; MM-2020-381; 21-2911-1; 21-2911-2; 21-2911-3

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Location of Violation: 7959 Dixie Highway
Citation#: MM-2020-352; MM-2020-367; MM-2020-382; 21-2934-1; 21-2934-2;
21-2934-3; 21-2934-4

Chairman Johnson called upon Bryce Rhoades, Attorney with Adams Law, PLLC, City of Florence Prosecuting Attorney, to present his case. Mr. Rhoades called upon his first witness, Fire Marshal Childress.

Mr. Rhoades identified the presentation prepared by Fire Marshal Childress and requested he state his name and position with the city. Fire Marshall Childress stated his name was Randy Childress and he is the Fire Marshal with the City of Florence Fire/EMS Department. Fire Marshall Childress identified his presentation. See attached Exhibit A.

Mr. Rhoades requested clarification with regard to Citation RC-2021-06, whether it was for one building, or all of the buildings combined. Fire Marshall Childress stated the one citation was issued for each building on the entire property.

Fire Marshall Childress stated the breezeways as identified in the presentation are the only single means of exit from the second and third floor of buildings. The steps are uneven and are not a consistent depth. See attached Exhibit A.

Board Member Spille requested whether the variance was in the rise of the steps as the steps escalate. Fire Marshall Childress replied affirmatively and identified the photographs. See attached Exhibit A.

Fire Marshall Childress identified the landings and the ceilings with holes, which appear to have animals nesting and rotting wood. The exteriors walls have dryer vents with conduit running from the outside with access into the building. See attached Exhibit A.

Mr. Rhoades asked if Fire Marshall Childress issued citation RC-2021-06. Fire Marshall Childress responded yes.

Mr. Rhoades identified each of the violations on the citation and had Fire Marshall Childress explain:

1. Means of Egress: Fire Marshall Childress stated there is concern that the deterioration of the steps could result in a potential collapse or non-use of the steps. At that point, there are four apartments on each level of the second and third floor. Those residents in the apartments would have no exit with exception to jump from a window to exit the building. The steps are the only and primary means of egress on all buildings.
2. Self-Closing Devices: Fire Marshall Childress stated self-closing devices on the laundry rooms are either broken or missing. The doors are being propped open. Should there be a fire in the laundry room, the self-closing device would help contain the fire in the laundry room. If the self-closing devices are propped open or missing, that would allow the fire to potentially go into the means of egress (steps) unchecked.
3. Manual Hold Devices: Fire Marshall Childress stated that was issued for the doors being propped open or putting something to prop open the laundry room doors.
4. Door Hardware: Fire Marshall Childress stated the door hardware, including no door knob, is completely missing in a building.
5. Smoke Detectors: Fire Marshall Childress stated the smoke detectors are installed in the wrong location. The smoke detectors are installed directly above the electric panel under an overhang. The smoke detectors should be installed on the ceiling. If there is a fire, the smoke will go the ceiling and take time to "bank" down.
6. Electrical Fire Safety (2 violations): Fire Marshall Childress stated there are several violations with the electrical. There are several areas with open wiring and missing lighting, whether in the means of egress or laundry rooms.
7. Housekeeping and Storage (3 violations): Fire Marshall Childress stated those violations are regarding the charcoal grills, Tiki torches mounted on the means of egress, wood and construction items in the steps, and multiple areas of storage where it should not be kept.
8. Utilities: Fire Marshall Childress stated the utilities were related to the gas fired heaters in the laundry rooms. Venting is either missing, displaced, or not functional. There is open electric on the units as well. Should the gas appliances "fire up", they would be putting exhaust directly into the laundry room.
9. Unsafe Structures: Fire Marshall Childress stated the violation is related to the steps. He is very concerned with regard to the stability of the steps across all of the buildings.

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Mr. Rhoades inquired with regard to the photographs of the laundry rooms. Fire Marshall Childress identified the laundry room violations in photographs as documented in his presentation. See attached Exhibit A.

Board Member Howard inquired whether there were laundry rooms in each of the buildings. Fire Marshall Childress replied affirmatively, however, one of the laundry rooms had been converted to a storage room. Another laundry room, at the Spruce Building, appears to be being used as storage. Access to both of these rooms were not permitted at the time of inspection.

Fire Marshall Childress identified the broken door devices. See attached Exhibit A. Board Member Spille inquired whether the doors were fire rated. Fire Marshall Childress replied affirmatively.

Board Member Howard inquired where the water was coming from as documented. See attached Exhibit A. Fire Marshall Childress stated he believes from the pipes.

Fire Marshall Childress identified a timer for the facilities in the laundry room which was not installed correctly and the exposed wiring. See attached Exhibit A.

Mr. Rhoades inquired whether the violations as identified all existed on September 23, 2021. Fire Marshall Childress stated yes. Mr. Rhoades had no further questioning.

Attorney for Intergroup Pine Lake, Inc., Andrew Poltorak, introduced himself and Vice President of Intergroup Pine Lake, Inc., David Gonzalez.

Mr. Poltorak questioned Fire Marshall Childress. He inquired when the citation RC-2021-06 was issued. Fire Marshall Childress stated the citation was issued a few weeks after the inspection since the issues were ongoing.

Mr. Poltorak asked Fire Marshall Childress the date the citation was issued. Fire Marshall Childress stated 10/26.

Mr. Poltorak:	When was the citation provided to Pine Lake?
Fire Marshall Childress:	That was provided to Pine Lake that day, should have been that day. I provided a copy and gave it to the property manager on site.
Mr. Poltorak:	On October 26?
Fire Marshall Childress:	I believe so, yes.
Mr. Poltorak:	Over a month after the inspection?
Fire Marshall Childress:	Yes.
Mr. Poltorak:	Is that normal to perform an inspection and then wait a month to issue a citation?
Fire Marshall Childress:	For the Fire Department it is. We try to work as much as we can to get these things resolved. This was not our first inspection there. This was one of multiple inspections over the past year and a half. We don't issue the citations on a routine basis. Last year, we only issued for one case. We take that under advisement and I talk to my supervisors, as well as, the city attorney and decide whether or not it is appropriate to issue those.
Mr. Poltorak:	Did you set that for a reinspection?
Fire Marshall Childress:	It should come back in a month, yes. Thirty days is typically when we go back. However, we have not set a date for this one, depending the hearing.
Mr. Poltorak:	When was the last time you were at Pine Lakes?
Fire Marshall Childress:	It was the 23 rd .
Mr. Poltorak:	So you are not aware that those electrical issues have been resolved?
Fire Marshall Childress:	No I am not.
Mr. Poltorak:	You talk about the landings. Are you aware that Pine Lake hired a structural engineer to evaluation those?
Fire Marshall Childress:	No they have not provided any documentation that I have seen.
Mr. Poltorak:	Did you consult with a structural engineer?
Fire Marshall Childress:	I have not.
Mr. Poltorak:	Are you aware that the steps at Pine Lake are in the process of being replaced?
Fire Marshall Childress:	I was under the impression or aware that they were working with various contractors. The reason I went on the 23 rd was there was a timeline that had been established. We chose that day because the last timeline expiration date was September 22 nd . So I

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had not seen any contractors that day working. If they have them working and working on those steps, I have not seen any movement on those steps at all.

Mr. Poltorak: And there is a building permit that has been pulled for that work right?

Fire Marshall Childress: To my knowledge yes.

Mr. Poltorak: So that work is being performed pursuant to a building permit?

Fire Marshall Childress: If it is being performed we have not seen any change to the conditions. I have gone with the building inspector in March to inspect. Whether he went and looked at the landings that were being worked on, that was the last time, to my knowledge, that the building inspector went for that particular permit.

Mr. Poltorak: You mentioned the siding and shingles. Again, you are not aware that has been repaired or painted at this point?

Fire Marshall Childress: No, I am not aware of that.

Mr. Poltorak had no further questions.

Mr. Rhoades called upon his next witness, Code Enforcement Officer, Mike Macaluso.

Mr. Rhoades requested Officer Macaluso state his name and position with the city. Officer Macaluso stated Mike Macaluso, Code Enforcement Officer for the City of Florence, Kentucky.

Mr. Rhoades identified citations which were issued to the property at 101-109 Pinehurst Drive by Officer Macaluso. Officer Macaluso identified photographs of the violations including a large oak tree on the property, exterior buildings with peeling flaking paint, siding falling off and in disrepair, gutter, trash/debris, dumpster enclosure, eaves in disrepair, rust and corrosion on the stairs. He explained areas are now see through due to the rust with holes on the steps. See attached Exhibit B.

Officer Macaluso stated the trash and debris has become such an issue the city has now started daily enforcement. The dumpsters accumulate a large amount of trash and debris. As a result, Rumpke is unable to return the dumpsters once emptied to their enclosures. See attached Exhibit B.

Mr. Rhoades identified the codes as identified on the citations and requested Officer Macaluso explain the violations:

1. 302.1 – Property Maintenance: Officer Macaluso stated the violation was for the large tree – unsafe premise. The tree has been removed, but not until after the third citation.
2. 302.4.1 – Property Maintenance: Officer Macaluso stated the violation was for the landscaping, overgrown vegetation, weeds. This violation has been remedied and in compliance as of yesterday,
3. 303.2 – Protective Treatment: Officer Macaluso stated that was for the peeling and flaking paint on the exterior walls plus the rust and corrosion on the metal surfaces on the stairways.
4. 305.1 – Officer Macaluso stated the violation was for trash and debris which continues to be an issue.
5. 303.7 – Officer Macaluso stated the violation was for roof and drainage which includes the eaves and soffits in disrepair.
6. 303.6 – Officer Macaluso stated the violation was for the siding in disrepair.
7. Zoning 3151 – Officer Macaluso stated the violation was for the dumpster enclosure. The zoning regulation states all dumpsters must remain in the approved area.

Mr. Rhoades asked Officer Macaluso whether the violations existed on September 30, 2020; October 7, 2020; and October 14, 2020 when the citations were issued. Officer Macaluso responded affirmatively.

Officer Macaluso had nothing further to add regarding the property at 101-109 Pinehurst.

Mr. Rhoades identified citations issued to the property identified as 102-108 Pinehurst Drive by Officer Macaluso. Officer Macaluso identified photographs of the property including exterior siding falling off, protective treatment, eaves falling down from the building, landscaping and vegetation overgrown, exterior siding in disrepair, rust and corrosion. Officer Macaluso stated the rust and corrosion was on every one of the surfaces throughout the building. He identified a photograph of a fence which was in disrepair. See attached Exhibit C.

Mr. Rhoades inquired whether Officer Macaluso had issued a new citation the previous day. Officer Macaluso stated he did not, he was at the property for a follow up inspection.

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Mr. Rhoades inquired of the four violations issued on Citation #MM-2020-357 and requested Officer Macaluso explain:

1. 303.6 – Officer Macaluso stated the violation was for the exterior walls (siding) which contained missing or rotting material.
2. 303.2 – Officer Macaluso stated the violation was for the protective treatment including peeling and flaking paint, rust and corrosion throughout the stairwells.
3. 303.7 – Officer Macaluso stated the violation was for roof and drainage which includes the eave which was sagging.
4. 302.4.2 - Officer Macaluso stated the violation was for the landscaping.

Mr. Rhoades asked Officer Macaluso with regard to the three citations issued and whether the violations existed on September 29, 2020; October 6, 2020; and October 13, 2020. Officer Macaluso responded affirmatively. Officer Macaluso stated the landscaping and weeds has been rectified and stayed in compliance to the best of his knowledge.

Mr. Rhoades identified citations issued by Officer Macaluso to the property identified as 110-118 Pinehurst Drive. Officer Macaluso identified photographs of the property including an eve falling down, protective treatment, exterior siding falling off, exterior wall of the brick which is starting to crumble, landscaping and weeds, unlicensed vehicles, and disabled vehicles. Officer Macaluso stated the photographs which had been taken of the exterior decks, had been replaced to the best of his knowledge, only after Fire Marshall Childress deemed the decks unsafe. He also stated there was rust and corrosion throughout the building. See attached Exhibit D.

Officer Macaluso identified a photograph of a dumpster in the parking lot. See attached Exhibit D. Officer Macaluso stated the trash has become such an issue that Rumpke brought in another dumpster. Officer Macaluso explained that while as stated by Pine Lakes previous counsel, Pine Lakes is preexisting nonconforming with regard to other dumpster enclosures, a photograph identified a dumpster which was placed on the parking lot, not screened. Officer Macaluso stated the dumpster was not permitted without the proper zoning and enclosure. See attached Exhibit D.

Mr. Rhoades inquired of the six violations issued on the citation and requested Officer Macaluso explain:

1. 303.2 – Officer Macaluso stated the violation was for the protective treatment including rust and corrosion.
2. 303.7 – Officer Macaluso stated the violation was for roof and drainage which includes the eave which was sagging.
3. 303.6 – Officer Macaluso stated the violation was for the exterior walls (siding) which contained missing or rotting material.
4. 302.4.2 - Officer Macaluso stated the violation was for the landscaping and overgrown vegetation.
5. Zoning Code 3151 – Officer Macaluso stated the violation refers to the dumpster in the parking lot without the proper permit nor screened.
6. Zoning Code 3149 – Officer Macaluso stated the violation was for all of the unlicensed or disabled vehicles on the property.

Officer Macaluso had nothing further to add for the property at 110-118 Pinehurst.

Mr. Rhoades identified citations issued by Officer Macaluso to the property identified as 113-117 Pinehurst Drive. Officer Macaluso identified photographs of the property including exterior siding falling off, protective treatment, eaves falling down from the building, rust and corrosion, trash and debris, concrete Spaulding which has broken free, landscaping and vegetation overgrown, disabled vehicles, and unlicensed vehicles. See attached Exhibit E.

Mr. Rhoades inquired of the six violations issued on the citations and requested Officer Macaluso explain:

1. 303.6 – Officer Macaluso stated the violation was for the exterior walls and exterior siding in disrepair.
2. 302.3 – Officer Macaluso stated the violation was for the concrete which had settled on the landing and sidewalk in disrepair.
3. 305.1 – Officer Macaluso stated the violation was for the trash and debris.
4. 303.7 – Officer Macaluso stated the violation was for roof and drainage which includes the eaves which was sagging and disrepair.
5. 303.2 – Officer Macaluso stated the violation was for the protective treatment, peeling, and flaking paint.
6. 302.4.2 - Officer Macaluso stated the violation was for the landscaping and overgrown vegetation.
7. Zoning Code 3149 – Officer Macaluso stated the violation was for all of the unlicensed or disabled vehicles on the property.

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Officer Macaluso stated three of the violations were remedied including the trash and debris. However, trash and debris on the entire property has continued to be an issue. Landscaping has been remedied. Unlicensed and disabled vehicles are a recurring issue. Officer Macaluso stated at the time he inspected the property, they were in compliance, however, the violations are recurring.

Mr. Rhoades inquired with regard to the three citations issued on September 30, 2020; October 7, 2020; and October 14, 2020 and whether the violations existed on those dates. Officer Macaluso responded affirmatively.

Mr. Rhoades inquired with regard to Citation 21-2912. Officer Macaluso stated the citation was issued for trash and debris and identified photographs. See attached Exhibit E.

Officer Macaluso stated the Northern Kentucky Health Department provided a fourteen day notice to the property because of the trash and debris and a sewer issue. The Northern Kentucky Health Department deemed the property to be a nuisance and a health issue. Therefore, the City of Florence elected not send a courtesy notice and moved forward with enforcement. Officer Macaluso stated the City of Florence emailed Interim Group Pine Lake, Christy Mendez, and explained the intentions and reasons for enforcement. Officer Macaluso stated citations were issued daily until the trash and debris was removed as a result of the chronic nuisance. Officer Macaluso stated he has explained to the property manager, Rumpke is the trash provider, and within reason, their duties are to service the receptacle, not to clean the parking lot. The trash and debris is within the enclosure, Rumpke is not required to get out of their truck and clean the entire area. Rumpke is only responsible for the receptacle. Officer Macaluso has spoken with Rumpke and within reason, if there is a bag which fell out of the dumpster, Rumpke will retrieve a bag. However, when an enclosure is full as identified in the photographs that is not permitted. Officer Macaluso stated, "Communication has been somewhat sparse, but what communication we have had, we tried to work with Pine Lake. We don't want to be here right now. I think you gentlemen understand that. City of Florence does not want to be here. We want to work with our property owners, within reason though. They said Rumpke could not service them until a Monday. I got with Rumpke, Rumpke confirmed it. So that Thursday was the last citation. I gave them Friday, the weekend, and that Monday to come into compliance."

Mr. Rhoades inquired with regard to the new citation format as opposed to the prior citations. Officer Macaluso explained the system for citations was changed and the new citations have a different format, but the information on the citations remains the same.

Mr. Rhoades asked with regard to the dates on the citation format citing October 26, 2021 for all of the new citations. Officer Macaluso explained the date is the initial date of the violation and when the case was initiated. Above the initial date is when the citation was issued.

Mr. Rhoades asked Officer Macaluso whether the violation existed on the three citations issued on November 1, 2021; November 2, 2021; and November 10, 2021. Officer Macaluso responded yes, as his photographs indicated.

Mr. Rhoades inquired with regard to the initial citations and whether those citations also existed on the dates the citations were issued. Officer Macaluso responded affirmatively.

Mr. Rhoades identified citations issued by Officer Macaluso to the property identified as 121-125 Pinehurst Drive. Officer Macaluso identified photographs of the property including exterior siding in disrepair, one of the decks which had been replaced, the building as a whole, eave and fascia board in disrepair, rust and corrosion throughout the stairwells, exterior siding, trim, unlicensed vehicles on the property, dumpster outside of enclosure, trash and debris including a mattress at the time of the photograph, vegetation and landscaping overgrown, exterior siding and peeling and flaking paint, and eave/soffits which had become dislodged. See attached Exhibit F.

Mr. Rhoades inquired with regard to the three citations issued to the property:

1. 303.2 – Officer Macaluso stated the violation was for protective treatment, exterior siding contains peeling and flaking paint.
2. 303.6 – Officer Macaluso stated the violation was for exterior walls which includes the siding which has become dislodged from the building.
3. 303.7 – Officer Macaluso stated the violation was for roofs and drainage, eaves which have become dislodged.
4. 302.4.2 – Officer Macaluso stated the violation was for landscaping, overgrowth of vegetation.

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5. 3149 Zoning Ordinance – Officer Macaluso stated the violation was for the vehicles which are unlicensed or in disrepair.
6. 3151 Zoning Ordinance – Officer Macaluso stated the violation was for dumpster outside of enclosure.

Mr. Rhoades asked Officer Macaluso whether the violations existed on September 30, 2020; October 7, 2020; and October 14, 2020. Officer Macaluso replied affirmatively. Officer Macaluso stated the landscaping is in compliance.

Mr. Rhoades identified citations issued by Officer Macaluso to the property identified as 122-126 Pinehurst Drive. Officer Macaluso stated there is a pool on the property and the violations for the pool were identified as part of 122-126 Pinehurst, as the pool has no address. Officer Macaluso identified photographs of the property including exterior siding in disrepair, peeling and flaking paint, vegetation and landscaping overgrown, trash and debris, accessory structure which was an old restroom for the pool, on the right hand side, the roof is completely missing, peeling and flaking paint, trash and debris inside, accessory structure in disrepair, pool does not drain and every time he has observed the pool there has been green stagnant water in the pool, fence in disrepair around the pool with holes in the fence, which allows children or rodents inside which posed an unsafe premise, the Health Department treated the pool with their fourteen day notice for mosquitoes, pump house in disrepair, pool tarp in grass, trash and debris including couch and mattress, and dumpster which was not enclosed. See attached Exhibit G.

Mr. Rhoades inquired with regard to the three citations issued to the property:

1. 305.1 – Officer Macaluso stated the violation was for garbage, trash and debris throughout the property.
2. 302.4.1 – Officer Macaluso stated the violation was for landscaping, overgrowth of vegetation around pool area, accessory structure.
3. 303.2 – Officer Macaluso stated the violation was for protective treatment, exterior surface contain rust and corrosion.
4. 303.6 – Officer Macaluso stated the violation was for exterior walls which contain missing or rotting material.
5. 302.4.2 – Officer Macaluso stated the violation was for overgrowth of vegetation.
6. 303.7 – Officer Macaluso stated the violation was for roofs and drainage, eaves in disrepair.
7. 302.7.2 – Officer Macaluso stated the violation was for the swimming pool in disrepair.
8. 302.7 – Officer Macaluso stated the violation was for the accessory structure in disrepair.
9. 302.3 – Officer Macaluso stated the violation was for the sidewalks near and around the pool in disrepair.
10. 3655 Zoning Ordinance – Officer Macaluso stated the violation was for the fence that is around the pool which is not structural sound and in disrepair.

Mr. Rhoades asked Officer Macaluso whether the violations existed on September 30, 2020; October 6, 2020; and October 13, 2020. Officer Macaluso replied affirmatively. Officer Macaluso stated the landscaping is in compliance and the grass inside and outside the pool accessory structures were cut after the citations were issued.

Mr. Rhoades identified citations #MM-2020-365, #MM-2020-378, and #20-1779-3 issued by Officer Macaluso to the property identified as 7141 Spruce Drive. Officer Macaluso identified photographs including a handrail missing on steps, siding in disrepair, trash and debris, unsafe structure, eave missing, exterior siding, rust and corrosion, peeling and flaking paint, overgrown landscaping, broken window held up by duct tape, unlicensed vehicle, eave in disrepair, and aggregate exposed on the third floor of the building, cracked and crumbling down. See attached Exhibit H.

Mr. Rhoades inquired with regard to the citations issued to the property:

1. 303.12 – Officer Macaluso stated the violation was for the handrails and guards missing.
2. 303.13 – Officer Macaluso stated the violation was for the window in disrepair.
3. 305.1 – Officer Macaluso stated the violation was for garbage, trash and debris throughout the property.
4. 303.2 – Officer Macaluso stated the violation was for protective treatment, peeling and flaking paint on the exterior of the building.
5. 303.6 – Officer Macaluso stated the violation was for exterior walls, exterior siding in disrepair.
6. 303.7 – Officer Macaluso stated the violation was for roofs and drainage, eaves in disrepair.
7. 302.4.1 – Officer Macaluso stated the violation was for the high weeds and grass, overgrowth vegetation.
8. 3149 Zoning Ordinance – Officer Macaluso stated the violations were for unlicensed and disabled vehicles.

Mr. Rhoades asked Officer Macaluso whether the violations existed on October 1, 2020 and October 8, 2020. Officer Macaluso replied affirmatively.

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Mr. Rhoades inquired with regard to Citation #21-2915-1. Officer Macaluso stated the citation referenced the trash and debris. Officer Macaluso stated, "Gentlemen, this one is by far the worst. This building in respect to where it is located does not have a dumpster enclosure or a dumpster nearby, they would have to cross over by the pond, past the building to have one. Pine Lake Apartments called Rumpke and had a 40 yard roll off placed on it." Officer Macaluso identified the photograph of the dumpster. (See attached Exhibit H) Officer Macaluso explained the city is not citing for the dumpster, they are citing for the trash and debris outside of the dumpster. Property owners on Merravay have contacted the Public Services Department requesting action be taken due to the odor and rodents. Officer Macaluso stated upon his inspection, he smelt the odor, but was unable to identify rodents.

Board Member Spille stated Rumpke will not pick up a dumpster if it is overfull. Officer Macaluso responded affirmatively.

Mr. Rhoades asked whether the city provided Pine Lake Apartments with alternate options. Officer Macaluso stated "yes", the city tried to give alternate options to get rid of the debris. An email was sent to the property manager, Christy Mendez, informing her that she did have to use Rumpke, however, there are other options to haul the trash away. Bavarian Dump will accept the trash and debris. Officer Macaluso stated as of his inspection on November 17, 2021, the trash and debris at 7141 Spruce remains in the parking lot. All of the violations are classified under code 305.1 trash and debris.

Mr. Rhoades asked Officer Macaluso whether the violations existed on November 9, 2021; November 10, 2021; and November 11, 2021. Officer Macaluso replied affirmatively and had nothing further to add.

Mr. Rhoades identified citations issued by Officer Macaluso to the property identified as 7153 Spruce Drive. Officer Macaluso identified photographs which included holes in the cedar shake and siding, rust and corrosion on metal surfaces, overgrown landscaping and weeds, siding in disrepair, dumpster outside enclosure, random shopping carts, trash and debris, and unlicensed vehicle. See attached Exhibit I.

Mr. Rhoades inquired with regard to the three citations issued to the property:

1. 303.6 – Officer Macaluso stated the violation was for exterior walls, exterior siding in disrepair.
2. 305.1 – Officer Macaluso stated the violation was for accumulation of trash and debris throughout the property.
3. 303.2 – Officer Macaluso stated the violation was for protective treatment, peeling and flaking paint.
4. 302.4.2 – Officer Macaluso stated the violation was for the landscaping which has been rectified.
5. 3151 Zoning Ordinance – Officer Macaluso stated the violation was for the dumpster outside of enclosure.

Mr. Rhoades asked Officer Macaluso whether the violations existed on October 1, 2020; October 8, 2020; and October 12, 2020. Officer Macaluso responded affirmatively.

Additional citations were issued to the property for the dumpster with overflowing trash and debris. Officer Macaluso identified photographs and reiterated it is not Rumpke's responsibility to clean the area around the dumpster. See attached Exhibit I.

Mr. Rhoades asked Officer Macaluso whether the violations existed on November 1, 2021; November 2, 2021; and November 10, 2021. Officer Macaluso stated yes as documented by his photographs and he had nothing further to add.

Mr. Rhoades identified citations issued by Officer Macaluso to the property identified as 7937 Dixie Highway. Officer Macaluso identified photographs including exterior siding, eaves in disrepair, overgrowth of landscaping, protective treatment on the stairwells, peeling and flaking paint, dumpster outside enclosure and parking lot in disrepair. See attached Exhibit J.

Mr. Rhoades inquired with regard to the citations issued to the property, the first being on September 28, 2020:

1. 303.7 – Officer Macaluso stated the violation was for roofs and drainage, eaves in disrepair.
2. 303.2 – Officer Macaluso stated the violation was for protective treatment, exterior siding and walls containing peeling and flaking paint.
3. 303.6 – Officer Macaluso stated the violation was for exterior walls and siding in disrepair.
4. 302.4.2 – Officer Macaluso stated the violation was for the landscaping and overgrowth of weeds and vegetation.

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5. 302.3 – Officer Macaluso stated the violation was for the parking lot in disrepair.
6. 3151 Zoning Ordinance – Officer Macaluso stated the violation was for the dumpster outside of enclosure.

Mr. Rhoades asked Officer Macaluso whether the violations existed on September 28, 2020; October 5, 2020; and October 12, 2020. Officer Macaluso replied affirmatively.

Mr. Rhoades inquired with regard to the recent citations issued for trash and debris under 305.1. Officer Macaluso replied affirmatively and identified photographs and reiterated the violation was for the accumulation of trash and debris inside the enclosure which prevents the dumpsters from being placed back into the enclosure. See attached Exhibit J.

Mr. Rhoades asked Officer Macaluso whether the violations existed on November 1, 2021; November 2, 2021; and November 3, 2021. Officer Macaluso stated yes as documented by his photographs. The landscaping and parking lot which were in disrepair had been corrected. Officer Macaluso stated, "The dumpster enclosure, again, this goes to the pre-existing non-conforming, they changed the basic structure of it and added to it. Therefore, since they have changed the basic structure of it, they would need to go through the permitting process and come up to current standards. Therefore, they fixed the violation by creating another violation. For which I have not cited for that violation." See attached Exhibit J.

Mr. Rhoades identified citations issued by Officer Macaluso to the property identified as 7959 Dixie Highway. Officer Macaluso identified photographs including window in disrepair, eaves in disrepair, siding in disrepair, peeling and flaking paint, rust and corrosion, and dumpster outside enclosure. See attached Exhibit K.

Mr. Rhoades inquired with regard to the citations issued to the property, the first being on September 28, 2020:

1. 303.6 – Officer Macaluso stated the violation was for exterior walls and siding in disrepair.
2. 303.13 – Officer Macaluso stated the violation was for the window which was in disrepair.
3. 303.2 – Officer Macaluso stated the violation was for protective treatment, exterior siding and walls containing peeling and flaking paint.
4. 302.7 – Officer Macaluso stated the violation was for the accessory structure which was the dumpster with missing slates.
5. 303.7 – Officer Macaluso stated the violation was for roofs and drainage, eaves in disrepair.
6. 3151 Zoning Ordinance – Officer Macaluso stated the violation was for the dumpster outside of enclosure.

Mr. Rhoades asked Officer Macaluso whether the violations existed on September 28, 2020; October 5, 2020; and October 12, 2020. Officer Macaluso replied affirmatively.

Mr. Rhoades inquired with regard to the recent citations issued for trash and debris under 305.1. Officer Macaluso replied affirmatively and identified photographs. He stated the dumpster was possibly the worst due to the odor. See Exhibit K.

Mr. Rhoades asked Officer Macaluso whether the violations existed on November 1, 2021; November 2, 2021; November 3, 2021 and November 10, 2021. Officer Macaluso replied affirmatively. Officer Macaluso stated the broken window had been replaced. While the dumpster enclosure had been fixed, Pine Lake changed the basic structure of the dumpster and added an additional enclosure. Therefore, Pine Lake would need to apply for the proper permits.

Mr. Rhoades informed Chairman Johnson he had nothing further and Chairman Johnson called upon Attorney, Andrew Poltorak.

Mr. Poltorak questioned Code Enforcement Officer Macaluso.

Mr. Poltorak: You indicated the parking lot has been repaired, is that right?
Officer Macaluso: Sections of it. Not as a hole, but some sections have been replaced. Some sidewalks.
Mr. Poltorak: Sidewalks have been replaced as well?
Officer Macaluso: In various places.
Mr. Poltorak: The dumpsters have been cleaned. You were at the site yesterday?
Officer Macaluso: So I am going to say, as of yesterday, the five front loading dumpsters were in compliance. 7141 the roll off, not even close.
Mr. Poltorak: And Rumpke was coming back out today to empty that, is that right?

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Officer Macaluso: They were going to come out Monday. I have not followed up with Rumpke since. I was out Tuesday, saw a new one out there and people putting trash and debris in there. That's why we have not cited you since Thursday.

Mr. Poltorak: With the trash and debris, you have been issuing repeat citations.

Officer Macaluso: Daily.

Mr. Poltorak: Right, and that would be even where the trash was removed.

Officer Macaluso: Incorrect. Incorrect, if there is no trash, there is no violation and there is no reason for me to even issue a violation.

Mr. Poltorak: So the trash has been removed and it accumulates again, is that right?

Officer Macaluso: When you say removed out of the property? No. The property has struggled to stay in compliance with trash and debris for years. But if we are talking per dumpster, yes, it comes and goes. Daily, weekly, I don't know. But we do weekly inspections now because it's become such an issue.

Mr. Poltorak: The trash is emptied from the dumpsters.

Officer Macaluso: Which dumpster? There are six different dumpsters. Are we talking as a whole? No, this property has not been in compliance in sometime. If we are talking about a specific dumpster, it is hard to say. I mean it comes and goes.

Mr. Poltorak: The dumpster enclosures. I think we were trying to get an understanding of what the expectations were. Those have been taken care of right?

Officer Macaluso: Have they been repaired? For all intensive purposes, yes, but they are still not in compliance.

Mr. Poltorak: And we reached out to you and the city?

Officer Macaluso: I've never heard from you. Bryce you mean?

Mr. Rhoades: I will stipulate that there was some discussion at one point about setting up a meeting and I don't remember who I had conversations with, but that ultimately didn't end up happening because of the other issues.

Mr. Poltorak: The decks have been replaced throughout the property.

Officer Macaluso: That is correct. As I stated, I don't have an exact date. It was over a time period I believe maybe two-three months. They started with one and slowly moved throughout the property. But all the decks, have been removed and rebuilt.

Mr. Poltorak: And you said the tree was removed?

Officer Macaluso: That is correct.

Mr. Poltorak: When you issue your citations, I understand that you posted it at the property and mail it correct?

Officer Macaluso: Correct, I duct tape it to the front door. Some of them have not been duct taped because I met Mr. Gonzalez on site and was able to hand deliver it to him, but, yes, every citation has been either posted to the property or delivered to some representative of Intergroup Pine Lake and also was mailed.

Mr. Poltorak: And who physically mails that?

Officer Macaluso: Our clerical.

Mr. Poltorak: And do you know if those notices were returned undelivered?

Officer Macaluso: I have never received any of them back. Typically when they get returned, they get put on my desk and then I go out and duct tape them to the door of that property.

Mr. Poltorak had no further questions.

Chairman Johnson asked Officer Macaluso with regard to the repair of the decks and siding as stated in the violations. Officer Macaluso stated the decks were replaced, however, the violation also included the cedar shake awning over the breezeways, under the windows, and continued throughout the decks. Every property had multiple issues with the siding outside of the decks.

Fire Marshall Childress stated he had taken photographs of the siding on September 23 and the decks were repaired after he issued a Condemnation Order.

Board Member Spille requested clarification with regard to the decks on the balconies and whether the egress had been repaired. Fire Marshall Childress and Officer Macaluso replied affirmatively to the decks on the balconies replacement. Fire Marshall Childress stated the decks were repaired after his Condemnation Order due to the concerns of the structural stability.

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Fire Marshall Childress identified photographs taken on September 23. See Exhibit A. Photographs revealed the cedar shake siding in between the windows and breezeways which were missing.

Board Member Spille inquired with regard to a prior meeting with the property manager and issues with the concrete steps. Officer Macaluso stated his initial touchpoint was on July 31, 2019. At that time, he sent an email to the Property Manager Trish at Intergroup Pine Lake on February 6, 2020. On January 29, 2020, Officer Macaluso stated himself, Mr. Childress, the Building Department, Health Department, Jose Lumes, the National Service Director from Intergroup Pine Lake, walked the property. Officer Macaluso stated, "I pointed out 249 violations that day and I gave him written notification of them."

Board Member Spille inquired with regard to the start of repair of the steps and then cessation. Officer Macaluso stated, "Yes and no. There is a whole parking lot full of steps out there. Mr. Gonzalez called his contractor and from what communication I heard on the phone with Mr. Gonzalez, is that it will be probably the end of this year, or first of next year before they can even start again. I don't really know why."

Board Member Howard inquired with regard to the safety issue of the steps and landings to condemn the property. Fire Marshall Childress stated, "I have serious concerns because of the rust and deterioration of the metal. As I stated, we have not had a structural engineer's evaluation of the steps and landings, I would welcome that for the sake of the safety of the residents and our responders going there. But I wouldn't be here telling you that I have concerns if I didn't have worries that, if there is something isn't done, in an immediate time frame, I do think they are in danger of imminent collapse."

Board Member Howard inquired with regard to the safety issues of the electric and the laundry rooms. Fire Marshall Childress identified photographs. See Exhibit A. Fire Marshall Childress stated there was multiple locations of exposed wiring on the outside of the breezeways for the lighting. The lighting is also the only lighting for the breezeways outside of each apartment. Fire Marshall Childress stated, "Many of those are falling off the brick. Many of them have exposed wiring, or just missing all together."

Board Member Spille inquired whether the lights were night lights and whether the lights were operated off of a switch. Fire Marshall Childress stated the lights are similar to porch lights and he believed the light are operated off a switch.

Board Member Spille stated that was not egress lighting and no battery backup. Fire Marshall Childress stated yes and the lighting which is there now is the only lighting with no backup in the stairwells. Board Member Spille stated that was against code.

Board Member Spille asked with regard to the stair risers and which ones were replaced. Fire Marshall Childress and Officer Macaluso stated some of the stairs were replaced. Fire Marshall Childress stated some of the steps which were replaced have cracked and missing corners, however, it is not clear which ones were repaired. Fire Marshall Childress identified photographs of the open conduit. See Exhibit A.

Fire Marshall Childress stated his department was voluntarily asked to inspect two apartments. Following verbal permission, he obtained photographs of the apartments at 7937 Dixie Hwy and 7959 Dixie Hwy, Apartment 1 and 2. See Exhibit A. Photographs identified damage due to a sewer back up, lack of ground fault circuit interrupter device (GFI's), and missing drywall with exposed live wires.

Board Member Spille inquired whether people were residing in the apartment he inspected. Fire Marshall Childress replied yes, including a four year old little girl. The residents informed him it had been three weeks since the water was removed and the apartment remained in the same condition.

Officer Macaluso stated there was an additional citation issued with regard to the sewer and cautioned the photographs were graphic. Mr. Rhoades identified Citation #21-2876-1 issued to 101-109 Pinehurst Drive. Officer Macaluso identified photographs. (See Exhibit B) Photographs document illicit discharge from the sewer.

Officer Macaluso stated a complaint was received from a resident with regard to the sewer which was backing up for weeks. The resident also indicated the sewage was backing up into her bathtub. Officer Macaluso stated, "Her testimony states that it backs up so bad, because she is on the first floor, it backs up into her tub. Their fix was to come out to this exterior cleanout (See Exhibit B photographs), pop the cap, allow the pressure in her tub to alleviate, pop the cap back on. It got so bad that they had to do it daily." Additional photographs were identified with raw sewage flowing

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out from the building. Officer Macaluso stated the first day after issuing a citation, he informed a mom to pull her two young kids out of the water and explain what the water was. Therefore, citations were issued daily until it was repaired.

Board Member Spille inquired whether the Northern Kentucky Health Department was notified. Officer Macaluso stated yes and it was part of their fourteen day notice. Officer Macaluso stated he issued four citations. Due to being out of the office, Officer Deno issued the fifth citation. When he issued the sixth citation, the repair was made. Officer Macaluso identified a photograph taken. (See Exhibit B) Officer Macaluso stated the plumber did not have a City of Florence Occupational License, he was from out of state. Officer Macaluso stated he is unclear whether the issue was properly repaired.

Board Member Spille inquired with regard to the repair. Officer Macaluso stated two ferncos, a clean out, and some pipe would be needed to repair. Officer Macaluso stated if it connects to the city's sewer, it would need to be inspected by the city.

Board Member Spille stated it should have been inspected by a plumbing inspector prior to being backfilled. Officer Macaluso replied affirmatively and stated, "The reason he issued the sixth citation, even though the repair was made, you guys can clearly see there is water down there, that fernco was leaking. On top of that, just beyond that hillside, where that raw sewage was flowing, there was still toilet paper, solids, rags, what have you. I have spoken with the office manager there that I will continuously cite, until I can see that there is a good connection and it is not leaking and there is no more raw sewage visible in the grass and landscaping area."

Board Member Spille inquired whether Pine Lake remained in violation. Officer Macaluso stated, "As of right now, they have cleaned up that hill side, but, from what I can tell, they buried it back and I can't tell if it's leaking or not."

Board Member Spille inquired whether the city had receipt of any inspection from a plumbing inspector. Officer Macaluso stated nothing had been provided. Officer Macaluso stated, "To say it is in compliance and it's not a violation, I can't, I have no evidence at this point to say whether it is or not. I just don't have enough evidence to continuously cite."

Mr. Rhoades asked with regard to the six citations issued and whether the violations existed on the dates cited. Officer Macaluso stated he issued five and Officer Deno issued one in his absence and the violations existed on the dates cited.

Mr. Rhoades inquired with regard to the citations:

1. 302.1 – Officer Macaluso stated the violation was for an unsafe premise.
2. 506.2 – Officer Macaluso stated the violation was for the sanitary drainage, the sewer pipe itself being in disrepair.
3. Section 9 of Ordinance 11-14 – Officer Macaluso stated the violation is for the illicit discharge, for the raw sewage exiting the pipe and going into a public area.

Mr. Rhoades had nothing further.

Chairman Johnson inquired with regard to the outstanding fines. Officer Macaluso stated \$39,700.00.

Board Member Spille inquired whether all citations had been resolved. Officer Macaluso stated no. Some violations have been resolved, but no fines had been paid.

Board Member Spille stated the entire property as a whole has outstanding violations and violations which were issued the previous year which remain not in compliance. Officer Macaluso replied affirmatively and stated, "The reason these were back in 2020 and here we are today, there was an agreement, through Adams Law, which was Bryce's office, to what was prior counsel, before Mr. Poltorak, we outlined everything that was wrong with it, and then we came up with a timeline, and they agreed to this timeline. That last day was Wednesday, September 22, 2021." The violations remain unresolved.

Chairman Johnson inquired whether Mr. Poltorak had any documentation or presentation to bring forth.

Mr. Poltorak had a brief presentation. Andrew Poltorak, Attorney with Stites & Harbison introduced himself as representative of Intergroup Pine Lake. He also introduced, David Gonzalez, with Intergroup Pine Lake. Chairman Johnson swore in Mr. Gonzalez.

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Mr. Poltorak stated he had a brief presentation with an overview of Pine Lake Apartments, including the completed capital improvements which had been made, continuing capital improvements to the property, and why they believe the fines and citations are excessive. He identified his presentation. See attached Exhibit K.

Mr. Poltorak stated Pine Lakes was a beautiful property with a pond and 157 units. Intergroup has owned the property for nearly 50 years, since 1972. He stated they are committed to being a good corporate citizen and look forward to working with the City of Florence. The 157 units are One/Two bedroom apartments and currently at 90% occupancy. Over the past four years, Pine Lakes has invested nearly one million dollars in the property and is committed to continuing to invest in the property and improve the property. Some of the repairs which have been made include the windows and doors, landscaping, and parking lot repairs in the amount of \$29,000.

Mr. Poltorak stated Pine Lake has obtained an architect to redesign the breezeways to enclose the breezeways to prevent some of the weather and elements affecting them. Pine Lake spent \$218,000.00 to replace the decks and siding. Over the past four years, Pine Lake has spent \$378,000 in concrete repairs to improve the site and replacing 400 steps. There are approximately 200 steps which remain to replace. Mr. Poltorak stated the installer informed Pine Lake he had Covid-19 and has not come back which is why the work on the steps ceased.

Pine Lake has spent \$40,000 for improvements to the pool. Mr. Poltorak reiterated the capital improvements which have occurred at the site are windows, skylight, door frames, including repaired broken windows and door frames, patio doors have been replaced in certain areas, accessory structures and decks have been replaced, exterior walls – siding painted and repaired, trash areas – new enclosures have been constructed. Mr. Poltorak stated Pine Lake has obtained additional staffing to monitor the trash receptacles to ensure the trash is put into the dumpsters.

Board Member Spille stated the enclosures were constructed without a permit. Mr. Poltorak stated he reached out to the city to determine what was expected on that issue and was informed that the enclosures were acceptable.

Mr. Poltorak stated the sidewalks and driveways, which were not level, have been replaced to level out the sidewalks.

With regard to the timeline set forth by the city, Mr. Poltorak stated they were not brought before the board because they were progressing with the repairs, but were delayed due to a number of factors.

Mr. Poltorak identified recent photographs taken approximately two days prior of the breezeways painted and siding replaced. (See Exhibit K) The cedar shake shingles on the deck have not been painted because they were told to let them “cure” prior to painting. Photographs of the dumpsters inside the enclosures were identified. (See Exhibit K) Mr. Poltorak additional staffing has been hired to police the dumpsters and have caught a third party dumping carpet in Pine Lake’s dumpsters. He stated they are implementing a process to ensure this is not a repetitive issue. Board Member Spille stated it is a repetitive issue.

Mr. Poltorak identified photographs of the swimming pool which had been pressure washed and a cover installed. (See Exhibit K) Photographs taken of the Inspection Notice for the balcony and deck repairs per code. (See Exhibit K)

Board Member Spilled inquired with regard to which building the permit was for. Mr. Poltorak stated it only was for one of the buildings, but they had permits for the entire property.

With regard to the water heaters, Mr. Poltorak stated a number of the water heaters have been replaced. (See Exhibit K) Licensed contractors with permits were used.

Photograph of the landings repaired pursuant to applicable code and Building Permit were identified. (See Exhibit K) Mr. Poltorak stated a structural engineer to evaluate the work was obtained. Pine Lake has incurred the cost of \$318,000 for the steps and landings for concrete work. Mr. Poltorak identified a photograph of bolts going through the concrete and stated their understanding is it is secured to the structural frame and secure. He stated they also would welcome additional opportunities to discuss with a structural engineer. Mr. Poltorak stated Custom Concrete performed the work on the steps and will continue to do those steps.

Board Member Spille inquired where Custom Concrete was based and if in Covington. Mr. Poltorak stated he believed they were.

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Mr. Poltorak identified his presentation with the unexpected delays. (See Exhibit K) Pine Lake contracted with Beso Construction which was owned by Steve Young. The company has went into bankruptcy and as a result, the work was not completed on the pool. Mr. Poltorak stated a lawsuit has been filed and Pine Lake has attempted to engage other pool contractors. Estimates did take time to receive and Pine Lake was unable to complete the work due to the lawsuit. Mr. Poltorak identified a copy of the complaint filed. See Exhibit K.

Board Member Spille inquired if the pool cover was kept on the pool if Pine Lake would be in compliance. Officer Macaluso responded, "There are multistage here. You got, is it fortified. Is that fence structurally sound to where, if you are going to say it is in disrepair, were going through litigation, I get that. I am more worried about an eight year old kid falling in there and getting trapped."

Board Member Spille stated "That's all the city needs. They don't want the pool full with chlorine water and ready for swimming. They want the area safe, the fence around it so kids can't get in there. The concrete going to it, so you don't have trip hazards and the pool completely covered so somebody can't fall in and drown. That's all the city is asking for. I mean going to a contractor getting him to do the whole thing we understand that, but to me, the company could use the maintenance people to put the pool cover on and secure it and get a fence company to fix the fence. I mean that's all the city is asking for. So as far as the unexpected delays on the pool repairs, I think it is just making it safe is what we are looking for."

Board Member Howard stated "Isn't this whole complaint about trying to make the place safe? I don't understand what the issue is here. You have an apartment building that is not safe and we are showing you it's not safe and there is nothing being done to make it safe. You're showing all these stats that you put this money into it, but let's talk about the safety of the issues, the hot water heater, and the exposures to the gas and carbon monoxide, the pool area, the landings. Make the stuff safe, that's all we are asking. What's the delay? My question would be, what the delay is. If I'm on the hook as you are sir, being the Vice President (directed to David Gonzalez), why is this stuff not being done. It's been two years. Make it safe and this goes away."

David Gonzalez, Vice President with Intergroup Pine Lake requested to explain. He stated, "As an example, I am sorry this is the way we meet. I'm based in California. We have properties across the country. We have owned Pine Lake, like our lawyer says, since 1972. We believe we've been good corporate citizens of this nice City of Florence. We've done all right throughout the years. This last years, I handed the property to a couple of employees, Christy, I think somebody mentioned, she is no longer with the company, just to give an example. Jose is completely disconnected from Pine Lake at this point so because of this reason, we were not aware at the corporate level of any of these things. We didn't get any citations. They were going to some other address and I started seeing some of these things that just happened to come through, I go wait a minute, we don't run our properties like that. We are a publically traded company. We don't do that. And we started working together on this thing. But just to come back to what you are asking sir about, the heaters in the laundry room are an example. Those heaters have not been used for thirty years. We are going to get a licensed plumber, we are going to remove them, and just cap them because they haven't functioned for thirty years. We don't use them. We, I came here maybe about two-three weeks ago, and I think my first day I met with the inspector Mike and I explained to him that I had just come from LA, I had dismissed these people because of this. I knew we were spending a lot of money, but in my mind, after spending a million dollars, I'm sitting there thinking, well we should be close to being done, and it's only a 157 units. And then, I'm learning about these things as I'm going along and I recently learned about so many violations, that hundreds, I had no clue. If you go to our corporate office, you won't find any of them because we didn't get them."

Board Member Spille responded, "Well as a corporation, shouldn't you have an annual inspection of your properties by corporate to make sure that they are being run right? Wouldn't that be, I mean if I was CEO of a company, I think I would make sure that my properties out of state, 2,000 miles away, that somebody was taking a look at them, and with the telephone and pictures nowadays, it's all pretty easy."

David Gonzalez replied, "Absolutely, our corporate reps were Christy and Jose, because they are regional. Right. I am the only real estate person at the company. I also run a hotel in San Francisco. So this started happening in 2019. In 2020, as we all know, we got this Covid thing. Our hotel is in the business district of San Francisco. It's the Hilton Hotel, 544 rooms. We are about to go bankrupt. Particularly because it's the business district, no leisure. And so I had to attend, I live there at the hotel, because otherwise, we would have lost the hotel. And I felt well, I have my staff here, everything is going okay because I kept cutting the checks."

Board Member Spille stated "She was here in front of us and said she was having a hard time getting corporate to back her to do the work."

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Mr. Gonzalez responded, "Let me tell you why, because she's right. Because they would submit proposals to me and they were apples to oranges to strawberries and to give you an example. Mike the inspector....we talked about the sewage, the second I learned, the bids come my way. Right, get me the bids immediately. I know you can't have any of that. The plumber, the local plumbers, wanted to replace 45 feet of pipe because they said you just touch it and it falls apart. And I go, well how do you know that happens 10 feet down, you haven't even touched it. You want to go 45 feet, because that happened to the president of the company. All he had was a toilet that was leaking, that was running, and he ended up spending like \$18,000 because he got one of these plumbers."

Board Member Spille inquired with regard to how many bids and plumbing companies looked at the sewer. Mr. Gonzalez stated, "Just this one. Because it was an immediate thing. So I brought my plumber from California. He opened it up, and he found the problem, he fixed it, he went to Ferguson and bought the exact right fittings, we took pictures of it, we sent them to our attorney, and we were sharing the pictures to make sure that this application, luckily was perfect. We got the plumber to come in, he looked at it, he said it's perfect, we will charge you \$2,500 just to send this thing into the city and we go, \$2,500? Just, we know, because we have been spending so much. The thing was that at one point we got the thing to close it up, and we can open it up again, I mean no problem, we will open it up."

Board Member Spille stated, "You keep talking money, you're not going to have any money if there is a fire and somebody at that apartment complex gets killed. Because if there is a fire and they can't get down the steps, or there is a fire in the laundry room and the smoke detectors is not at the high point of the ceiling where it is supposed to be, so that's a delayed time of the smoke detector going off, or the fire. That's why, I don't understand the money part. I understand that you are a business, your dollars and cents, but when it comes to lives, money should not be an issue. And if you can't afford to fix it, then you need to sell it and get out of the business."

Mr. Gonzalez stated, "I completely, I apologize if I come across it's about money."

Board Member Spille stated, "That's what it's been. It's been about money since 2019 and the city has worked, we have given. We gave her time, she asked for more time, we gave them more time and then all of a sudden it just kind of quit. There was no work going on, this wasn't getting fixed, that isn't getting fixed, and then were told you're going to have this meeting, and that was supposed to happen, what six-eight months ago, and then it kept getting pushed off and getting pushed off. Us as a board, feel like that you're wasting our time by coming up here and telling us about all this stuff and you're still not in compliance."

Mr. Gonzalez wanted to explain the status of the outstanding items. He stated, "The landings as an example. Those, what's holding the landings with those, metal bars, is embedded into foundation, into the beams of the buildings. These are original built constructed since the 50, since the 70s. Those are, they have this huge metal things, those are solid. They are there...the light and fire detectors, smoke detectors, I am going to go ahead and address that immediately."

Board Member Spille stated, "That's just it. We're going to fix this, we've been hearing that since 2019. That's the problem. It's just talk. We want action. Why are the lights still hanging off the walls?"

Mr. Gonzalez replied, "We sent the guy from Texas to clean the garbage and to fix the lights. They all have been repaired."

Board Member Spille inquired of the code officers whether all the lights were repaired. Fire Marshall Childress stated a repeat inspection had not been done to determine the status. Officer Macaluso stated he was at the site the day prior and obtained photographs. He stated there are lights hanging and the only thing holding the lights up were the wire nuts.

Mr. Gonzalez stated, "I'm going to go and take pictures of it. Because I am told they are all repaired. We sent somebody from Texas. What's happening with the garbage, as an example, we had additional dumpsters brought in because of this, we had three, now we have five, and three pickups per week." Mr. Gonzalez stated they have caught people filling their dumpsters which were not residents and have additional people policing the dumpsters.

Mr. Poltorak had nothing further to add.

Board Member Spille stated, "When it comes to life and death, there's just no excuse. I understand the peeling paint. I understand the cedar shake shingles. You know, that's superficial...But you don't have egress lighting for people to get out of their apartment on a third floor and if it's dark outside, how are they going to see to go down the steps. First of all,

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I don't know how they got by without code because there should be a battery backup egress lighting unless they got grandfathered in."

Fire Marshall Childress responded they were probably grandfathered in because the apartments were built in 1972. He stated, "However, it is pitch black. From a functional standpoint and performance, it does not work. It needs lighting."

Mr. Gonzalez stated, "We will commit to put, to bring it to code with this."

Board Member Spille inquired what the expectation was from the board. Mr. Poltorak stated, "We would like to continue to work with the city. I have tried..." Board Member Spille stated they have no objection if they work with the city and resolve the issues.

Mr. Poltorak continued, "I got involved in May. Bryce got involved about the same time. And for whatever reason, we just haven't been able to sync up. I've been trying to operate going through attorneys and I haven't reached out to these folks directly. I would be happy to work with them directly if that's."

Board Member Spille stated, "We have been trying, that's what we've been trying to do since 2019 is to get somebody to cooperate with our code enforcement officers to walk the site with them, to say okay, yeah we'll get that taken care of right away. We'll get that taken, but then when I see pictures from the Chief where they actually finally got in and you got an apartment flooded and wiring that's exposed, and heaters that you haven't used for 30 years, but if somebody turns one on, it's not vented. If it gets turned on accidentally, if it's not locked out at the electric box like it should be, because the vents not hooked up, and a tenant goes in there and turns it on, you've got carbon dioxide poisoning. Just because you're not using it, does not mean it's not operational. And if it's not locked out, to where it can't be turned on, it can be turned on, and it's not functional. And all these issues, if you're willing to work, now..."

Mr. Poltorak responded, "Mr. Gonzalez has been here for the past two weeks. The trash is getting, I know that was a priority..."

Board Member Spille responded, "The trash isn't the safety. It's the safety."

Mr. Poltorak stated, "I understand. Also, Mr. Gonzales has also been speaking directly with the steer installer, and I want to be heavily involved in this, I'll communicate with whomever, I've been trying to set up a meeting at the site and we were told, let's not have a meeting at the site until after this hearing."

Board Member Spille expressed his inclination to not provide any additional time and would leave the decision to cite the property up to the Code Enforcement Officers.

Mr. Poltorak stated it would be helpful to walk the property, he had not had the opportunity to walk the property. Fire Marshall Childress stated they have walked the property with Mr. Lemus, already, more than once. Fire Marshall Childress stated, "We cited all these issues, the issues are still present. It's the companies representative, I can't help that he's not with them. We have provided an opportunity to walk with counsel, to walk, not your counsel, previous counsel, and employees."

Board Member Spille stated the board is unable to rule while there are open citations.

Board Member Rowland inquired with regard to the fourteen day notice by the Board of Health. Officer Macaluso stated that was for the sewer and trash. The city is unable to enter the interior of the property unless they are granted permission.

Board Member Rowland inquired with regard to the end of the fourteen day notice. Officer Macaluso stated at the present time, the sewer is not an issue and the trash is a continuous issue. He was unclear as to the Health Department's next step, but if there is a violation, the city will cite the property owner.

Officer Macaluso requested from Chairman Johnson an opportunity to ask Mr. Poltorak a few questions. Chairman Johnson granted Officer Macaluso permission.

Officer Macaluso questioned Mr. Poltorak:

Officer Macaluso: Mr. Poltorak, you just stated and testified that you reached out to the city. Can you tell me who you reached out to?

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Mr. Poltorak: So, right, when the city is represented by counsel, I typically reach out to the city's attorney.
Officer Macaluso: Okay, so did you misspeak when you stated that you tried to call the city?
Mr. Poltorak: I don't think I said I called you.
Chairman Johnson: Yes sir, you said you called the city and did not get any reply and did not get a response.
Mr. Poltorak: I must have misspoke.
Officer Macaluso: So I'm assuming you tried to reach out to our counsel, is that correct?
Mr. Poltorak: Maybe I was referring to Mr. Childress, I know we spoke after the one inspection, but.
Fire Marshall Childress: Yes, when I went to inspect the property I went to the property to set up a date. Could not access the management. Nobody would answer the door. They did provide an email address. I emailed them the intention to inspect on the 23rd, they did provide, that email did provide permission to inspect on the 23rd. That got to you, I don't know when, I wasn't aware that you were their counsel and didn't have any contact information from you. I got contacted by you later, later that morning when I had already gone to the property and I called you as soon as I was done.
Mr. Poltorak: Okay, I appreciate that, thank you.

Board Member Spille inquired with regard to a timeline of repairing the concrete in between the buildings and why it was not finished. Mr. Gonzalez stated, "He said that the people that were doing it, the ones, because we did 400 of them, that they had met with the city, the met with Jose, the met, and they all agree with the certain application, and they sent for steps from Dallas because the psi's, we wanted them to be like so much better, than the required."

Board Member Spille stated they should be 4,000 psi. Mr. Gonzalez replied they would be 5,000 psi and continued, "We ordered them, and then this guy got, the guy that he supposedly does it and he does it exactly to the measurement, he got Covid and Mike was with me on the phone, when I was with the concrete man."

Board Member Spille inquired when he had Covid. Mr. Gonzalez replied maybe in April-May. He stated, "I call him every day, we just got an email from him and I'm asking him every day and we are already under contract with him. We already have the steps. He's missing another 100 steps from Dallas."

Board Member Spille inquired with their intention to repair the landings and whether he obtained a report from an instruction engineer. Mr. Gonzalez replied, "Well all the landings have been repaired except there is four. We went to see them. What happened with the landings, because we have owned it for so many years and I have been with the company for 38 years, I know it may sound like an excuse, there's so much salt thrown in there over the winter, that all of the sheet metal that's underneath the cement, they rust out, and have to be changing them constantly. So if you are looking at the ones before, you will see the beams that are holding the concrete..."

Board Member Spille stated, "The beams exposed holding the concrete is fine. The problem is the water gets in through the masonry around those steel and rusts out right at the wall. You'll never see it, if the waters getting into the masonry. I understand that I can see the steel from the wall to here to here, and it looks great, but I got concrete up top that's broken up and the waters getting in and the pans are starting to rust. If that water gets into the masonry, where it goes through the veneer and it attaches to the steel, structural steel, if you can't see that and if you don't inspect that, actually take some brick out around that steel to make sure, it will rust at that and down it goes."

Mr. Gonzalez replied, "The cement that you can see from the picture that is there, if we were to blow it up, you can see the interior of the cement is there."

Board Member Spille stated he would like a local structural engineer to inspect the property and provide a report to the city. Mr. Gonzalez stated he would have that done immediately.

Board Member Spille continued, "...We are all in the dark. Nobody with any kind of degree in structural engineer can tell us that those stairs are safe for the EMT's to carry a stretcher up, or a firemen to go up in full gear if there is a fire and not have to worry about falling down through the steps and I really think that needs to happen."

Mr. Gonzalez responded, "I will do that today. We have a structural engineer that designed all those patios we replaced, I'll get the same structural engineer to come out and do that."

Board Member Spille believed a review by a structural engineer would be beneficial and Mr. Gonzalez assured him he would have it inspected immediately.

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Board Member Howard inquired of the options to proceed. Officer Macaluso requested the board rule on the citations to allow him to proceed with enforcement.

Board Member Howard stated the three options would be to either grant additional time, uphold, or forgive. Mr. Nienaber stated their options were to consider the testimony and uphold the citations either in full or in part, or to set aside the citations, and then act with respect to the fines and penalties which are outstanding in the amount of \$39,700, in full or in part, and make a determination.

Board Member Spille made a motion to continue the case until the January 5, 2022 meeting to provide time for a structural engineer report and determine cooperation received by Intergroup Pine Lake with the city, further his motion allowed continuance of enforcement by the Code Officers, and no further proof be submitted. The final determination of the case would be made at the January 5, 2022 hearing. Board Member Rowland seconded the motion. Chairman Johnson requested a Roll Call Vote. Board Member Spille, yes; Board Member Rowland, yes; Board Member Howard, yes. **Roll call recognized three yes votes. Motion passes.**

Chairman Johnson informed Mr. Poltorak and Mr. Gonzalez, "If we don't see anything, if we don't have the communication, if we don't have any progress being made on the safety violations that we have, that we've talked about, as Mr. Howard has said and I'm sure most of the board here, if not the entire board agrees, that we will uphold all of the citations, uphold all of the fines, and things will be in a really difficult situation. We do not want to see this facility close or have to misplace all of those people living there. We don't want to see that, but I would rather do that then have somebody die in a fire and can't get out. You understand what we are saying."

Mr. Gonzalez replied, "I do."

Chairman Johnson continued, "That is the most important thing that I can see that we have, is that it has to be that safety issue as it's already been talked about. If we don't see that, we are going to be in a bad situation and it's going to be placed back upon you completely with all of the fines and all of the citations. You understand that?"

Mr. Gonzalez replied, "Thank you."

Mr. Poltorak replied, "I do, yes."

Chairman Johnson stated, "We will be here and we expect to see you at our January 5 meeting."

ADJOURNMENT:

There being no further business to come before the Board, Chairman Johnson called for a motion to adjourn. Board Member Spille so moved, with a second from Board Member Howard. **Motion passed with unanimous approval of the Board**, the time being 12:06 pm.

ATTEST:


Melissa Kramer, Secretary

APPROVED:


Jim Johnson, Chairman

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