

**TOWN OF OLD ORCHARD BEACH, MAINE
ADMINISTRATIVE HEARING
Tuesday, December 16, 2014
3:00 pm.**

An Administrative Hearing was called to order at 3:05 p.m. on Wednesday, December 16, 2014, to consider administrative review.

The following were in attendance:

**Town Manager Larry Mead
Assistant Town Manager, Louise Reid
Planner – Jeffrey Hinderliter
Code Enforcement – Dan Feeney
Police Chief Dana Kelley
Fire Chief Ricky Plummer
Planner – Jeffrey Hinderliter
Anita Anderson – Health Inspector
Tina Kelly
Marc Bourassa**

**Absent: Kenneth Lafayette
 Gary Curtis**

The Town Manager served in his capacity of Chair of the Administrative Board and asked each of the Board members to introduce themselves to those in attendance during this day's review. The authority of the Administrative Review Board comes from the Code of Ordinance: Business Section 18-38 and Section 18-39. This is a fact finding meeting with the prime goal of resolving issues. He also indicated that the ARB meeting is triggered by either one written complaint to License Administrator pertaining to Business License/Code/Ordinance violation or three or more disturbances verified by the Police Chief. He explained that this does not imply that businesses appearing before the ARB are less than stellar and it is hoped that issues can be resolved today so that it does not have to come to the Town Council. In each of the three hearings below the Town Manager explained the purpose and goal of the Administrative Board.

3:00 p.m. 4 Fourth Street (310-6-4) – Jeff Corbin/Proulx Real Estate Investment LLC, 6 year round SRO (Single Room Occupancy's).

Mr. Corbin presented a detailed description of the several calls to the Police that have occurred and in several of the instances, he made the calls. The Police Chief indicated that this is the appropriate action to take even though calls constitute often an Administrative Review Board meeting. However, understanding the reason for the calls make the discussion helpful and alerts staff that incidents are being addressed in sufficient manner. He acknowledged ongoing issues

with a particular neighbor even though he has legitimately signed an agreement to purchase not only 4 Fourth Avenue but also 43 West Grand Avenue. The stalemate is because it is held up in the court as a result of the filing by the disgruntled neighbor. The Administrative Board understood that it is a complicated matter. Mr. Corbin made it clear that he has a plan for the buildings and for the business and is anxious for the legal matter to be settled so that his ownership is approved and he can move on with his business plan. Concerns were expressed by members of the Board as to the amount of materials left behind the buildings and although Mr. Corbin does respond, the situation then resumes which is the issue being brought before the Board today. It was noted that over the years a number of concerns have been raised relative to construction debris as well as fact that it is felt that trash floats in and out from September to June. Additional concerns were raised to the issue of inability to work out issues related to renters causing issues and not being able to leave the property. The number of calls requiring the need for police and fire to come to the scene is considered a concern as well. Initial concerns about the issues related to those to whom are being rented opportunities and the need for attention to address issues related to the renters. The alarm system has been activated a few times again needing the call to the fire department and service having to be rendered. The Board, however, believe that Mr. Corbin is attempting, to the best of his ability, to address the situations that have been raised during this discussion.

Pat and James Brown of Fourth Street were in the audience and Pat Brown spoke at the hearing as well and acknowledged the good intent of Mr. Corbin relative to issues related to his business but again confirmed the request that attention be directed at cleaning up the issues behind his buildings so that this issue will not have to be addressed again.

MOTION: Town Manager Larry Mead motioned and Fire Chief Ricky Plummer seconded that around the end of March an Administrative Review Board Meeting be held to follow up on the issues brought forward so that when the business license goes on the April Town Council agenda that the recommendation will be brought forward to approve the business license. It should be noted that Marc Bourassa abstained from the vote because of a possible conflict of interest due to the fact that he is an abutting neighbor.

VOTE: Unanimous.

3:30 p.m. 137 Temple Avenue, Sea Breeze Circle Apartments (211-4-11), Wescott & Payson, 32 year round rentals.

In attendance from the business were Mary Porkka – Senior Property Manager; Michael Payson, the owner; and David Chamberlain, Attorney. The discussion was around the concern is being issues about the number of calls required for service by the Police Department for issues related to those to whom apartments are being rented. There was discussion about the one particular tenant and the solution to the issue was following the legal requirements and eviction being possible. It was obvious that the business owners have legal advice and are doing all they can to follow the correct procedures and again Chief Kelley indicated that calls to the Police Department, although they result in an administrative review, it is definitely the way to go. There was an awareness that

this business is organized and fully aware of what goes on in the housing units but also that there are sometimes mental and health issues that relative to disturbances. This is a year round occupancy; not summer rentals. The Administrative Board thanked the business owner and the property manager for what is an obvious good business practice in the working of the operations. The Administrative Board felt no need for additional follow up. It was suggested that perhaps being part of the Neighborhood Watch group would be an asset to the business and the Assistant Town Manager was to provide contact information to the Property Manager.

MOTION: Marc Bourassa motioned and Tina Kelly seconded that further action is not necessary at this time as business concerns are being addressed.

VOTE: Unanimous.

**4:00 p.m. 34 Washington Avenue, (311-16-15 – Larry Pyle/Pyle/Smyrski Partnership,
3 year round rentals.**

Larry Pyle and Robert Smyrski were in attendance, both business owners. They were aware and have attempted to address the water and mold issues and repair of the equipment necessary. They have spent an enormous amount of money and physical effort in addressing the issues which have been presented to them. One of the difficulties they have had is that one of the renters has a boyfriend who occasionally stays in the apartment and when they have attempted to do the work, his presence and complaints have made it difficult. The Health Officer, Anita Anderson, indicated that she had a complaint that she needed to address in order to close the file. Again, the business owners addressed the history of the incident where mold and water were present and how they have attempted to address the issues. The recommendation of the Health Officer was that the building needs to be retested before a permit is given. Renewal of the license is April 15, 2015. The Administrative Review Board thanked the business owners for their contribution and willingness to come before the Board in such a positive manner.

MOTION: Chief Ricky Plummer motioned and Marc Bourassa seconded that the building be re-inspected before the April deadline for the license renewal.

VOTE: Unanimous.

4:30 p.m. 96 First Street, (312-10-16), Victor Bogart/Robert Stagg, Sr. , 6 year round rentals.

Present for the discussion was David Lourie, attorney for Mr. Victor Bogart; Robin Dube who assists in the management of the facilities; and Victor Bogart, owner of the business. There were several complaints that had been brought before the Board and these were the reasons for the calling of the Administrative Review Board hearing. Complaints about the condition of the apartment including dirt and mold; inability to open or shut windows; fire extinguisher not accessible; stove so dirty unable to clean. Concerns have been raised as to the unsafe conditions of the apartment. Windows are blocked which would make it impossible to get out in case of an emergency. Wall outlets are wet from water damage. Other concerns by renters are wet carpets, leaks that have not been fixed; sewer issues. Attorney Lourie disputed most of the reports that were provided and assured the

Board that he personally had been in one of the units and found nothing with code violations. He said he understood that a former renter wanted to speak and that he preferred she speak before him. The Town Manager asked Lori Kimball if she would like to speak. She indicated that she would.

Her comments included: “I moved in September 5, 2014 and I moved out on October 27, 2014. I was also paid up to November 5, 2014. When I was there Victor stalked me all the time both day and night. I felt intimidated and also scared. He would tell me about what he was doing to the other tenants especially the elder woman upstairs about raising her rent. He said she would make up stories about being ill. One night I had to call 911 for her. She had a stroke. He told me that I should have called him if anybody showed up like the Police and Fire Department. That night I didn’t call him. He started screaming at me and I was on the phone with 911 and I felt it was important than calling him. He asked me out a couple of more time and screamed at me for calling him a pot head. I would like to hand him a small claims court paper for the rest of my money and that way he can’t say that he didn’t get them. I would like to thank the Administrative Board for letting me talk.”

In addition to Ms. Kimball there were other complaints from residents of the units. Robin Dube spoke about what she considered to be the disrespectful behavior of the Code Officer. She took several opportunities to do this. Mr. Bogart also made such claims. The Code Enforcement Officer disputed the allegation that his conduct or demeanor with Ms. Dube and Mr. Bogart were inappropriate. Discussion revolved around picnic tables which were put in what were to be parking spaces. There was a sense of unwillingness on the part of Mr. Bogart and Ms. Dube to agree to the request for the Code Officer to enter the apartments and do a code inspection. The Administrative Board encouraged the business owner to permit this. Certainly if all he and Ms. Dube had said about how excellent the conditions of the units were, why would there not be consideration for Code Enforcement viewing all the units.

Robin Dube again spoke about the Code Officer and asked that the Fire Chief come to the inspection. The Town Manager said the Code Officer and the Fire Chief would be in attendance. It should be duly noted that Attorney Lourie indicated his belief that the Town does not have the right to get access without an administrative warrant. The Town Manager and the Fire Chief disagreed and both Chief Plummer and Code Officer Feeney stated that the Town’s practice is to inspect all rental units in a property at the same time because that is more efficient and cost effective method given our limited staff. The Town Manager indicated that he would check with our attorney on this matter. Tina Kelly encouraged the business owner, if as he has said many times during the discussion, that all the units meet code, then it would be to his advantage to allow the inspection to be done so that we all will know that what he says is correct. His attorney again reiterated as he had several times during the discussion that the inspection could be done in the one apartment. The Administrative Review Board’s request was for all the units. It was decided that the Code Enforcement Officer and the Fire Chief would have access to all the units sometime during the first two weeks of January. This will give Mr. Bogart the opportunity to work out the arrangements with his renters. A report will then be sent to the Administrative Review Board. The Town Manager explained that no business is being treated differently as was suggested by Mr. Bogart and that in the interest of safety the same attention is being afford other rental units. The recent fire in Portland has brought even more attention to the need for inspections being done on a regular basis.

MOTION: Marc Bourassa motioned and Tina Kelly seconded that a pending inspection of all units will be arranged for the first two weeks of January and that the Code Enforcement Officer and the Fire Chief will have access at that time to all units. The results of the inspection will then be reported to the Administrative Review Board.

VOTE: Unanimous.

The Administrative Review Board adjourned at 5:05 p.m.

Respectfully Submitted,

**V. Louise Reid
Secretary to the Administrative Board**

I, V. Louise Reid, Secretary to the Administrative Board of Old Orchard Beach, Maine, do hereby certify that the foregoing document consisting of five (5) pages is a true copy of the original Minutes of the Administrative Hearings Tuesday, December 16, 2014.