

**HOUSING CODE BOARD OF APPEALS MEETING
MEETING MINUTES
May 11, 2021**

The Housing Code Board of Appeals held a meeting on Tuesday, May 11, 2021.

1. Call to Order

Chairman Baldwin called the meeting to order at 6:35 p.m.

2. Pledge of Allegiance

Chairman Baldwin stated that we would forego saying the pledge because there were no flags present.

3. Roll Call

Commissioners present: Joel Baldwin, Chairman, Richard Merly, Jr., Vice-Chairman, James McMellon, and Todd Casey

Staff present: Deepa Joseph, Director of Health, Laura Miller, RS, Chief, Environmental Health Division, and Jonathan Berchem, City Attorney

Others present: Vincent Melissano, Appellant

4. Election of Officers

Chairman Baldwin asked for nominations for Chairman. Mr. McMellon and Mr. Merly made and seconded a nomination for Joel Baldwin. Vote passed unanimously.

Chairman Baldwin asked for nominations for Vice-Chairman. Mr. McMellon and Chairman Baldwin made and seconded a nomination for Richard Merly as Vice-Chairman. Vote passed unanimously.

5. Appeal of Mr. Vincent Melissano, property owner, regarding a Notice of Violation issued by the City of Milford Health Department on January 20, 2021 for the premises at 133 Meadow St., Milford, Connecticut. Several violations of the City of Milford Housing Code are noted: Roof leaking water into the condo unit causing damage to the ceiling and wall in the dining room, living room and the second-floor loft area.

Chairman Baldwin asked for background regarding Mr. Melissano's appeal of the Notice of Violation issued by the Milford Health Department.

Ms. Joseph deferred to the City Attorney. Mr. Berchem explained that there was a full hearing on March 11, 2021 and that Mr. Melissano's Notice of Violation appeal was denied. The CT Department of Public Health Hearing Office upheld the Milford Health Department's Notice of Violation, as violations noted were affirmed during hearing. The dispute appears to be between Mr. Melissano and the condo association as to whose responsibility it is to correct the noted violations by repair and/or replacement.

Mr. Casey asked if the Board has any jurisdiction to bring in the condo association. Mr. Berchem confirmed that the Notice of Violation was issued to the condo association as well as to the Owner. The

condo association has not made an appeal. Paul Scholz, the Milford Health Department Sanitarian involved in this case has spoken with the condo association and they report that there have been repairs made to the roof, however the roof has not been replaced. The condo association also reports that they have attempted to gain access to the interior of the unit to make repairs. Mr. Berchem added that it is not the Milford Health Department's charge as to determine whose responsibility it is to fix the roof.

Chairman Baldwin asked if the condo was a free-standing building. Mr. Melissano replied that condo association consists of three buildings, with ten units in each building, five units on top and five on the bottom. Mr. Melissano's condo unit is on the top.

Mr. Melissano stated that the condo association fixed the outside roof six years ago, but he feels it was never properly fixed. After the work was done, water spots were still leaking through the sheet rock. Mr. Melissano thinks the condo board is trying to blame everything on the skylight in his condo. He doesn't feel anyone is helping him.

Mr. Berchem explained that the tenant called the Health Department to file a complaint. Under the Milford Housing Code of Ordinances and CT General Statutes, a rental dwelling needs to be free from water infiltration. Based on the observation of existing conditions, the Health Department issued a violation. The Board is here to determine whether the Notice of Violation is valid and whether or not to uphold it.

Chairman Baldwin inquired as to who was ultimately responsible for the leak. If the faulty roof is responsible for the leak and the City of Milford cited both the condo association and the owner, why isn't the condo association weighing in.

Ms. Joseph stated that both parties were cited. She confirmed that the Health Department received a complaint by the tenant and investigated the complaint. Upon observing violations of the code, a Notice of Violation was issued to both the owner and the condo association. The condo association had West Shore Realty, the property management company, make some repairs on March 4th. Following the repairs done in March, the property management company reports there has not been any active leak complaints made by the tenant. The tenant has corroborated that there have not been any additional leaks. There haven't been any repairs to the inside, therefore the NOV cannot be abated at this time. The owner is responsible to maintain a safe and healthy unit for the tenant. Health Department enforces the housing code and ultimately it is the condo association and/or the owner's responsibility to abate these conditions.

Mr. Berchem stated that he appreciated Mr. Melissano's frustration. The City is not trying to be unhelpful.

Chairman Baldwin questioned that once the roof is fixed, whose responsibility will it be to fix the inside of the condo.

Mr. McMellon asked Mr. Melissano if he approached his insurance company because they may help.

Mr. Melissano responded that he did not call his insurance company because, six years ago, when there was a leak, the condo association fixed the outside and the inside. He feels that the damage came from the outside through roof to the inside. Mr. Melissano said he pays commons charges and fees and that these damages should be covered by the association.

Mr. Berchem stated that those are good arguments to make to the condo board.

Mr. Melissano questioned if the Health Department cares if there is black mold in the walls.

Mr. Berchem replied that the Health Department has been involved in this situation with Mr. Melissano and the condo association for over one year, because it cares about the tenant living in the conditions that have been cited.

Mr. Casey addressed Mr. Melissano stating that the Housing Code Board of Appeals can't resolve a conflict dispute between him and his condo board. They are there to ensure that there will be a fix to an unhealthy condition for the tenant living in his condo unit.

Chairman Baldwin question as to whether or not the condo association was served and what the penalty is for ignoring a Notice of Violation. Mr. Berchem replied that the case would be moved to the State Prosecutor's office.

Chairman Baldwin asked if the Health Department could follow-up with the condo association and that maybe the State Prosecutor can do something, if referred to that office. Both the owner and condo association should bear some responsibility.

Mr. Berchem stated that representatives from West Shore Realty, the property management company, have responded to the Notice of Violation and said that they have not been allowed access to the inside of the unit. Mr. Melissano said that was not true.

Mr. Berchem reminded everyone that this meeting is to address the appeal and to decide whether the Notice of Violation is valid.

Mr. Melissano added that the inside of the condo should not be fixed before the outside is fixed correctly.

Chairman Baldwin wondered if the condo association should be involved at this point, because they hired West Shore Realty.

Mr. Berchem responded that the condo association already fixed a portion of the roof. He said that the City cares about water coming in from the roof. Mr. Melissano appealed the Notice of Violation. Mr. Berchem is asking the Board to uphold the violation. The Milford Health Department cannot get involved in a dispute between the owner and the condo association.

Ms. Joseph stated that the Health Department Sanitarian Paul Scholz was notified that the association had done some repairs on the roof and have tried to make some repairs inside but the condo association has not been given access to the inside. The Health Department's order ultimately is to legally compel both parties cited to resolve and abate the issue. Both parties agree that the cited violation exists.

Mr. Casey recalled a similar situation about 18 months ago where an inspector was trying to get into a condo and the condo association and the owner agreed to meet at a certain time. This meeting led to a resolution of the issue.

Ms. Joseph stated that there seems to be no dispute that the conditions exist. The property management company believes they made sufficient repairs to the roof and want to get access into the

condo to complete repairs to the interior. The issue before the Board is whether the Notice of Violation should be upheld.

Mr. Berchem added that the condo association is not off the hook. They are just not part of the appeal. The purpose is whether the Notice of Violation is valid. The condo association did not appeal this, therefore, it is presumed it is valid.

Mr. Melissano said that he understood.

Mr. Merly asked what would make the situation go away. If they fixed the roof and then made the inside repairs?

Ms. Miller stated the Health Department would need to verify that the roof work and interior work was completed using best practices to eliminate the water infiltration and correct the violations. As the landlord, Mr. Melissano is ultimately responsible for the safe housing for his tenant.

Chairman Baldwin brought up the point that Mr. Casey made earlier, a similar situation that occurred 18 months ago was settled when the parties agreed to meet and come to a resolution. He suggested that Mr. Melissano should make a call to the condo association and all other parties involved in this dispute so that they can come to a resolution. He should keep the Health Department informed and involved in the process. Mr. Melissano agreed.

Chairman Baldwin declared the public hearing closed.

Mr. Casey and Mr. McMellon made and seconded a motion to uphold the Notice of Violation dated January 20, 2021. The Board will give the Appellant Mr. Mellissano two weeks to coordinate a meeting between the condo association, the Milford Health Department Sanitarian, and himself so that they can assess the repairs made and the additional work that needs to be done. Motion carried unanimously.

6. Adjournment

Mr. McMellon and Mr. Casey made and seconded a motion to adjourn. Motion carried unanimously. The Board adjourned at 7:27 p.m.

Respectfully Submitted,



Beth Simpson
Recorder