

**NOT FINAL UNTIL TIME EXPIRES FOR REHEARING AND, IF FILED,  
DETERMINED**

**IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PINELLAS COUNTY, FLORIDA  
APPELLATE DIVISION**

**A. RYAN LAHUTI and ISABELLA  
LAHUTI,  
Appellants,**

**Case No.: 15-000080AP-88A  
UCN: 522015AP000080XXXXCV**

**v.**

**CITY OF DUNEDIN, FLORIDA,  
CODE ENFORCEMENT BOARD,  
Appellee.**

Opinion Filed \_\_\_\_\_

Appeal from decision of  
Code Enforcement Board,  
City of Dunedin, Florida

A. Ryan Lahuti a/k/a Ryan A. Lahuti  
Pro se Appellant

No appearance for Isabella Lahuti

Jay Daigneault, Esq.  
Attorney for Appellee

**PER CURIAM.**

Appellant, A. Ryan Lahuti, pro se, appeals the "Order Imposing Lien " entered by the City of Dunedin, Florida, Code Enforcement Board on December 9, 2015. There has been no appearance by Isabella Lahuti.<sup>1</sup> We affirm.

<sup>1</sup> The Initial Brief is purported signed only by "Ryan A. Lahuti, Esq." and states that the appeal brought on behalf of Appellants, A. Ryan Lahuti and Isabella Lahuti. However, upon investigation, there is no attorney licensed in the state of Florida with the last name of Lahuti. The reply brief is signed only by "A. Ryan Lahuti, Pro Se." Mr. Lahuti cannot represent his wife in this appeal as he is not a Florida licensed attorney. Pleadings filed by a non-lawyer on behalf of another are a nullity. See Torrey v. Leesburg Reg'l Med. Ctr., 769 So. 2d 1040, 1043 (Fla. 2000).

## Statement of Case

### Timeline:

08/10/2015	501 Pinewood Drive, Dunedin, Florida inspected by Code Enforcement Inspector
08/14/2015	"Statement of Violation/Request for Hearing" mailed to Appellant (App. 1)
09/16/2015	Notice of Evidentiary Hearing for October 6, 2015, hearing with attached Statement of Violation/Request for Hearing (Supp. App. 1)
10/06/2015	Hearing conducted (App. 6, Transcript)
10/14/2015	"First Order of the Board" entered finding violations and stating that Appellant must "comply with FBC Section 105.1, and IPMC Sections 304.7, 305.1, and 605.1 by November 1, 2015, or suffer a fine of \$250 a day for each day until compliance. . . ." (Supp. App. 2) No appeal filed
10/15/2015	"Notice of Hearing (Compliance/Non-Compliance Hearing)" set for December 1, 2015 (Supp. App. 3)
12/01/2015	Hearing conducted ( App. 5, Transcript)
12/08/2015	"Order Imposing Lien" entered stating Appellant shall pay \$250.00 per day the violation(s) continued past November 1, 2015 (Supp. App. 5)
12/09/2015	"Affidavit of Compliance" as of December 4, 2015, by Code Enforcement Inspector (Supp. App. 6)
12/14/2015	Notice of Appeal filed

The Statement of Violation/Request for Hearing states in part:

**Codes which has been violated:**

**Violation Details Date Established: August 14, 2015**

**00001 FBC.105.1 BUILDING PERMIT REQUIRED**

**A BUILDING PERMIT IS REQUIRED FOR:**

- 1) THE INSTALLATION OR CHANGE OUT OF ALL WINDOWS. CURRENTLY THE ISSUED PERMIT ONLY COVERS THREE WINDOWS.**
- 2) THE INSTALLATION OF NEW EXTERIOR DOOR IN THE GARAGE.**
- 3) THE INSTALLATION OF THE NEW AIR CONDITIONER UNIT**
- 4) THE INSTALLATION OF THE NEW ELECTRIC WATER HEATER**
- 5) THE INSTALLATION OF NEW ELECTRICAL OUTLETS**

**00002 IPMC.SEC.304.7 ROOFS AND DRAINAGE**

**THE ROOF IS NOT BEING MAINTAINED IN A STATE OF GOOD REPAIR AS EVIDENCED BY THE WATER INTRUSION INTO THE BEDROOM CEILING AREA.**

**00003 IPMC.SEC.305.1 INTERIOR STRUCTURE-GOOD REPAIR**

**THE INTERIOR CEILING IS NOT BEING MAINTAINED IN STATE OF GOOD REPAIR AS EVIDENCED BY FLAKING MATERIAL FROM WATER INTRUSION. THERE ARE ALSO LARGE OPENINGS IN VARIOUS AREAS INCLUDING THE TUB ACCESS AND THE CEILING OVER THE FUSE PANEL.**

**00004 IPMC.SEC.605.1 ELECTRICAL-INSTALLATION SAFE**

**THE ELECTRICAL SYSTEM IS NOT INSTALLED TO WORK SAFELY. THE PLUG IN THE BEDROOM SPARKED AND BURNED OUT WHEN A PLUG WAS INSTALLED. THERE ARE ALSO TWO OLDER ELECTRICAL OUTLETS IN THE REAR YARD THAT ARE EXPOSED TO WEATHER AND MAY NOT BE PROPERLY INSTALLED PROPERLY.**

(App. 1).

### **The October 6, 2016, Hearing**

The Code Inspector, Michael Kepto, testified that on August 10, 2015, while at the subject property, he noted there were numerous violations of Florida Building Code 105.1 for failure to obtain building permits. Inspector Kepto stated:

Since this letter went I think there's been a few more windows added to that permit; the installation of a new exterior door in the garage; the installation of a new air conditioner unit; the installation of a new electric water heater; the installation of new electrical outlets.

(App. 6, p. 4)(emphasis added). Mr. Kepto clarified to the Board that the Building Official, Joe May, had been on vacation and had not had the opportunity to review the current permits to determine if all pending permits complied with the cited violations. (App. 6, p. 5).

The Appellant personally did not attend the October 6, 2015, hearing, but was represented by the property manager for the residence, Mel Aram. In response to the list of violations, Mr. Aram testified that other than the repairs to the soffits and fascia, all other listed necessary repairs had been completed. He stated that "here shortly" the permit for the air conditioning unit would be pulled. Mr. Aram represented that "[a]ll of the other items have been taken care of and I have permits and receipts from contractors that have done the work." (App. 6, p. 6) Board Vice-Chair Lowell Suplicki, directly asked Mr. Aram: "To be clear, you're pulling after-the-fact permits on the air conditioning and electrical?" (App. 6, p. 6)(emphasis added). In response, Mr. Aram stated, "Yes. The electrical has been – has been taken care of. The – if I'm incorrect, Mr. Kepto, please advise, but the electrical has been taken care of." (App. 6, p. 6-7). Mr. Aram indicated that he notified Inspector Kepto that he had taken care of the violations in an e-mail dated October 3, 2015.

Board Member William Motley noted that after the October 3, 2015, e-mail the Inspector had not had time to do an inspection before the October 6, 2015, hearing. (App. 6, p. 8). Inspector Kepto informed the Board that he did not intend to do an interior inspection of the home until all permits had been pulled. (App. 6, p. 10). Mr.

Aram testified that he thought the permit for the side garage door had been pulled. Mr. Aram stated:

But I can't really read permits and I don't know what they are or what they mean, but these are permits that have been pulled and noted in the box.

With the interior inspection, I would like an inspector to meet me at the property to show me if the contractor has not done something correctly so I can do it per code and do it correctly.

(App.6, p. 11). Vice-Chair Suplicki explained:

City staff is historically very good about they'll come out, they'll work with you on that. But Mr. Kepto specifically said he's not a home inspector. You're hiring licensed contractors. . . . So they should know how to do things to satisfy the code. That's why they are licensed. So what he's saying is when all the permits are pulled all of the inspections will be done and you will know if everything is done per code, because, if you have a building permit, the building inspector is going to come out and make sure everything is secured properly, the windows are installed properly, all of those good things.

So I think what you're asking for is fine, but you're going to get those inspections by virtue of permits being pulled. So coming back to [October] 23rd, you're already, based on your testimony and what appears even though we haven't reviewed it, what you have there you already got most of your permits already pulled, you've got everything done. Is the 23rd going to present a problem?

(App. 6, p. 12-13). The Board found the property to be in violation of the Code provisions listed in the Notice and subject to a \$250.00 per day fine after October 23, 2015. (App. 6, p. 14-15). Mr. Aram requested that Appellant be given an extension of time until November 1, 2015, for compliance to ensure everything would be completed. (App. 6, p. 13-14). In discussing the request for an extension of time to comply, Board members noted that in giving an extension until Sunday, November 1, 2015, there would not be sufficient time to put Appellant's case on the Board's Agenda for the next Board meeting on November 3, 2015, and for the "paperwork trail that has to be created." (App. 6, p. 14-17).

The Board granted the extension and stated that Appellant was to comply with the Notice by November 1, 2015, or suffer a \$250.00 per day fine, and the compliance hearing would be conducted at the December Code Board meeting. (App. 6, p. 17-18).

There was no objection to the announced December hearing date. There was no appeal from the October 14, 2015, "First Order of the Board."

**December 1, 2015, Hearing**

At the December 1, 2015, Board meeting Appellant personally appeared. Inspector Kepto testified that on November 30, 2015, he researched the property records and met with Building Official May to discuss the permit issues and found that violations remain. (App. 5, p. 4). Immediately prior to the hearing, Inspector Kepto met with Appellant and explained to him about the outstanding violation of failure to obtain an electrical permit and possible remaining interior damage due to the prior roof leak. (App. 5, p. 4-5).

In response, Appellant presented the Board with copies of e-mail correspondence between Mr. Aram and Inspector Kepto. Appellant stated that

the very first time we hear that the only item remaining is electrical is today. . . . The very first time that we heard there was a little wire coming into one of the bathrooms that then required a permit, and in his opinion – and I said, that was done by the previous owner. But I would be happy to – a lot of these things were done by the previous owner. I would be happy to pull that permit so there's no issues, but I can't know about it today.

(App. 5, p. 8-9). Appellant complained that Mr. Aram sent the e-mails to Inspector Kepto asking for clarification. "What do you mean electrical? Because the outlets we have not modified. These outlets are there." (App. 5, p. 9).

In response to this statement Chairman Bowman repeatedly pointed out that the installation of new electrical outlets is listed on the August 14, 2015, Notice as a violation. (App. 5, p. 9). Appellant interrupted and stated, "We didn't install the electrical outlets. . . . So technically, it's not a violation." (App. 5, p. 9-10). Appellant stated that "to appease Mr. Kepto" he would hire a licensed contractor to pull a permit.

Further testimony was presented by Inspector Kepto about work done on the residence without permits. (App. 5, p. 10-13). Appellant noted that the only issue that remains is the electrical permit "and I'm indicating this is the first time I hear about this. . . . Mr. Kepto today showed me picture of a wire coming into the laundry room that says requires a permit. This is the very first day, very first time. I have never had an email or letter or anything indicating that – " (App. 5, p. 13). Chairman Bowman interrupted

Appellant and once again repeatedly pointed that the August 14, 2015, Notice of Violation states there was an electrical permit violation. (App. 5, p. 13-14). Appellant testified that the Notice had a general statement of violation and he did not know that the Notice was about a specific electrical outlet going into the laundry room. (App. 5, p. 16-17, 19).

Vice-Chair Suplicki explained to Appellant that every residential structure has to meet the Electric Code and a licensed electrical contractor can determine if the residence is not up to code. When a permit is pulled, the electrical inspector for the City will inspect the residence and ensure it meets code. "And it isn't the code enforcement officer's purview to go and say, well, this meets code or this doesn't. That's why you have an electrical contractor, and that's why the City of Dunedin has an electrical inspector." (App. 5, p. 18-19).

In response, Appellant indicated that he had an electrical contractor come to the residence to look at everything. A receipt for the electrical contractor was submitted to the Board. Appellant again argued that although the Notice of Violation states installation of new electrical outlets, his contractors did not install any new electrical outlets. (App. 5, p. 19-21).

Vice-Chair Suplicki asked if the City electrical inspector came and signed off the electrical permit. Appellant did not respond to the question, but repeated once again that he had not had electrical work done on the property and protested that if Inspector Kepto had stated to Appellant that he saw an electrical outlet in the laundry room that he needed to pull a permit for he would have done it. Although Appellant pulled a remodeling permit, it did not include a roofing permit or an electrical permit. (App. 5, p. 22-23).

Board Member Motley announced, "Okay. So – but there's no electrical permit, and that's what you have to have." (App. 5, p. 23). Appellant responded, "So just to be clear. This was not discussed at the previous hearing, but that's fine. The only issue that remains is an electrical permit, correct, and for outlets that was put in before we went in there." (App. 5, p. 23). Appellant testified that he had a letter from an electrician saying the wiring in the house is safe. The Work/Notes Form by the electrician describes the work done on August 18, 2015, as "TROUBLE SHOOT NO POWER TO



BEDROOM OUTLET." The electrician found the "duplexes" were burnt up and he replaced two-twenty amp duplex outlets. (App. 1, p. 11). There are no other notations on the Form and no notation that an electrical permit was pulled for the residence. In his reply brief, Appellant directs this Court to the Work/Notes Form as evidence that the electrician "inspected the house and confirmed that there are no new electrical outlets, and that all electrical plugs are safe and up to code." However, the Work/Notes Form does not support Appellant's statement.

Inspector Kepto pointed out that although the wiring may have been determined to be safe, it was not permitted. "You were cited for a building permit is required for the installation of new electrical outlets. There is no mention [in the Notice of Violation of whether] you did it, a prior landlord, a prior owner. The work was done without a permit." (App. 5, p. 25).

In discussing the Work/Notes Form, Board Member Hilbenbrand inquired further, "The word is safe. I didn't see the letter. It said safe. Did it say code, that everything meets code?" (App. 5, p. 28-29). Appellant did not respond to the question, but asked for a continuance and stated that he would have the electrical permit pulled and filed the following week. (App. 5, p. 29). The motion for continuance was denied, the Board found the violation was not in compliance, and a fine of \$250.00 per day was imposed.

### **Standard of Review**

When the circuit court in its appellate capacity reviews a final order of local governmental administrative action, "three questions are asked: whether due process was afforded, whether the administrative body applied the correct law, and whether its findings are supported by competent substantial evidence." Lee County v. Sunbelt Equities, II, Ltd. P'ship, 619 So. 2d 996, 1003 (Fla. 2d DCA 1993). This Court sitting in its appellate capacity is not permitted to reweigh the evidence or to substitute its judgment for that of the Code Enforcement Board. See City of Deland v. Benline Process Color Co., Inc., 493 So. 2d 26, 28 (Fla. 5th DCA 1986).

### **Analysis**

#### **Due Process**

The participants in a code enforcement hearing are entitled to minimum due process and to an impartial decision maker. See Fla. Water Servs. Corp. v. Robinson,

856 So. 2d 1035, 1039 (Fla. 5th DCA 2003). Basic due process requirements are met if the parties are provided notice of the hearing and an opportunity to be heard. Jennings v. Dade County, 589 So. 2d 1337, 1340 (Fla. 3d DCA 1991).

Appellant claims his due process rights were violated. It is asserted: "At the October 6, 2015, Board hearing, it was anticipated that Appellant's case would be conducted on the next Board Meeting of 11/3/15" based on the compliance date of November 1, 2015. However, the case was not heard until December 1, 2015, although the compliance date remained November 1, 2015. Appellant asserts that if the long list of violations was not completed, the City would be entitled to a "windfall" of \$7500.00 based on the daily fine of \$250.00 for thirty days. Appellant theorizes that Inspector Kepto's "vague or lack of response was aimed at letting the deadline pass" so a fine would be imposed.

As set out above, on October 6, 2016, property manager, Mr. Aram, on Appellant's behalf requested an extension of time to November 1, 2015, in which to comply. The Board discussed the fact that if the extension was granted there would be insufficient time to place the matter on the Board's November Meeting Agenda or for all paperwork to be generated. (App. 6, p. 14-17). The extension of time was granted and the Board announced the case would be considered at the December Board Meeting. There was no objection to the December hearing date.

There was no violation of due process as Appellant was provided notice of the hearing date on October 6, 2016, received a written Notice of Hearing, and had the opportunity to be heard on December 1, 2016.

### **Competent, Substantial Evidence**

Inspector Kepto testified that on August 10, 2015, he observed a non-permitted electrical outlet in addition to other non-permitted work items. Officer Kepto testified that as of November 30, 2015, no electrical permits had been pulled for the subject property. Inspector Kepto submitted an affidavit of Non-Compliance with the August 14, 2015, Statement of Violation.

Appellant argued that the electrical outlet in question had been installed by the prior owner of the house and therefore "technically" there was no violation. Appellant is incorrect in his argument. The law is clear that "code violations 'run with land' and



subsequent purchasers can be held responsible for bringing their property up to code." See City of Gainesville Code Enforcement Bd. v. Lewis, 536 So. 2d 1148 (Fla. 1st DCA 1988). "By necessity and logic, there is nothing unconstitutional in holding that as the party who has the power to bring the land into code compliance, the current owner should be charged with that responsibility." Monroe County v. Whispering Pines Assocs., 697 So. 2d 873, 875 (Fla. 3d DCA 1997). Inspector Kepto explained to Appellant at the December 1, 2015, hearing that the Statement of Violation indicated that an electrical outlet had been installed without a permit. The Statement did not indicate whether Appellant, the prior landlord, or prior owner had installed the new outlet. The notice was given that it was installed without a permit. (App. 5, p. 25)

Appellant asked for a continuance in order to have an electrical permit pulled and in effect with that request admitted that no after-the-fact electrical permit had been pulled for the electrical outlet.

The Work/Notes Form submitted by Appellant does not indicate that an electrical contractor completely examined the residence and the permit history to ensure that all electrical work done on the property was permitted and met the current code. The Work/Notes Form merely evidences that the electrician replaced two plugs in the bedroom of the property.

The August 14, 2015, Statement of Violation/Request for Hearing clearly listed a violation of Florida Building Code 105.1 for failing to have a building permit for "THE INSTALLATION OF NEW ELECTRICAL OUTLETS." As was explained to Mr. Aram at the October 6, 2015, hearing, Code Enforcement Inspector Kepto is not a Building Inspector. The contractor or property owner or is to obtain a building permit, the work done pursuant to that permit will be inspected by a Building Inspector, and the work done will be approved if done in accordance with the City regulations. The evidence outlined above demonstrates that Appellant had notice that an electrical outlet did not have a permit.

Appellant complains that Inspector Kepto did not meet Mr. Aram at the property prior to the November 1, 2015, deadline so the inspector could specifically point out the electrical outlet that did not have a permit. At the October 6, 2015, hearing the Board explained to Mr. Aram that it is not Inspector Kepto's job to be a building inspector. A

licensed contractor who had been hired to examine the property to ensure all work was permitted and met code would be able to tell Mr. Aram which electrical outlet was not permitted.

This Court is not permitted to reweigh the evidence or to substitute its judgment for that of the Code Enforcement Board. Benline Process, 493 So. 2d at 28. A review of the record demonstrates that competent, substantial evidence supports the Board's decision that Appellant failed to comply with the August 14, 2015, Statement of Violation of Florida Building Code 105.1 because a building permit was required for the installation of a new electrical outlet.

### **Application of the Correct Law**

(A) Appellant complains that pursuant to City Code section 22-77, the burden of proof was on Inspector Kepto to prove by a preponderance of the evidence that there was a violation of the City Code. It is asserted that Inspector Kepto failed to meet this burden because he did not present photographic or other exhibits showing the violation.

Proof by a preponderance of the evidence means proof which leads the factfinder to find that the existence of a contested fact is more probable than its nonexistence. Smith v. State, 753 So. 2d 703, 704 (Fla. 5th DCA 2000). In order to meet this burden it is not necessary for physical evidence to be presented to meet this burden. This Court has determined that competent, substantial evidence supports the Board's decision.

(B) Appellant directs the Court to City Code section 22-80 concerning the factors to be considered when imposing a fine. Appellant asserts (1) the fine of almost \$8,000.00 is excessive; (2) the fine represents the maximum fine allowed by the Code and the facts do not warrant the maximum fine; and (3) \$7,000.00 of the fine is due to the Board setting the hearing on December 1, 2015, rather than the November 3, 2015, hearing date as originally scheduled.

The fine of \$250.00 per day was imposed at the October 6, 2015, hearing and is stated in the October 14, 2015, "First Order of the Board." Neither Appellant nor his representative objected to the stated amount of the fine and did not file an appeal from the October 14, 2015, order. The Appellant's complaint about a \$250.00 per day fine being imposed is untimely and cannot be raised in this appeal.

Further, with regard to the December hearing date, Appellant's agent appearing on Appellant's behalf requested a continuance until November 1, 2015. It was announced that the Compliance Hearing would be conducted at the December Board meeting. Appellant's agent did not object to the December hearing date. Appellant cannot complain that the hearing date was moved to December 1, 2015, in order to accommodate his agent's request for a later compliance completion date.

(C) Appellant complains that Section 101 requires the Code Enforcement Officer to provide at least thirty days' notice for a violation to be corrected. Appellant claims he received notice of the laundry room violation on the day of the hearing.

The evidence demonstrates that Appellant was notified of the violation of Florida Building Code 105.1 for failing to have a building permit for "THE INSTALLATION OF NEW ELECTRICAL OUTLETS" in the August 15, 2015, Statement of Violation/Request for Hearing. Appellant was notified that an electrical permit was needed. Appellant did not pull an electrical permit before the December 1, 2015, compliance hearing.

(D) Appellant argues that the Statement of Violation violates City Code Section 22-103. He asserts that the Code "requires detailed facts of the violation. The Statement of Violation is vague on some issues such as 'Electric Permit required.' The Code requires that either the Laundry room code violation be disclosed in the Statement of violation or communicated in an email thereafter therefore providing Citizens with reasonable notice and an opportunity to make needed repairs."

Code Section 22-102 governs the form and content of a citation for a City Code violation. Inspector Kepto did not issue a citation in this action. A Notice of Violation was issued in this matter pursuant to Code Section 22-72 that does not require a statement of facts or specifications about the violation observed. Further, neither Code Section 22-72, nor Code Section 22-102, requires the Code Enforcement Officer to

communicate with a violator by email.

Affirmed.

**DONE AND ORDERED** in Chambers in Clearwater, Pinellas County, Florida, this  
29<sup>th</sup> day of August, 2016.

Original Order entered on August 29, 2016, by Circuit Judges Linda R. Allan,  
Jack R. St. Arnold, and Keith Meyer.

Copies furnished to:

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