



Tampa Bay Association of Code Enforcement  
 In-Person Meeting Agenda  
 October 10th, 2023 (11:30 a.m. -1:00 p.m.)

Tampa City Center  
 2555 E. Hanna Ave, Tampa, FL, 33610

The regular meeting of the Tampa Bay Association of Code Enforcement (TBACE) was at the Tampa City Center, Tampa, FL, 33610. The following active members were present and signed in:

Ross Collins	City of Plant City	Lisa Byington	City of Clearwater
Larry Hoffman	Hillsborough County	Wallace McMillon	City of Largo
Angeline Johnson	City of Tampa	Ray Shultz	City of Largo
Sergio Grillo	City of Pinellas Park	Shane Rank	City of Largo
Christine Zien-McCombs	Hillsborough County	Patrick Arotin	Pasco County
Krystal Ramos	City of Tampa	Steven Eyster	City of Tampa
Ismael Gonzalez	City of Tampa	Diane Devol	Pinellas County
Laurie Smith	City of Temple Terrace	Gregg Silliman	City of Oldsmar
Jose Silva	City of Temple Terrace	Chris Freeman	City of Tampa
Doug Allen	City of Temple Terrace	Joe Gross	Hillsborough County
Paul Bushee	City of Safety Harbor	Nicole Sequeira	City of Tampa
Vicki Sudduth	City of Clearwater	Blair Green	City of Tampa
Gregory Dixon	City of Clearwater	Carmen Marciano	City of Tampa
John Stephens	City of Clearwater	Florentino Rodriguez	City of Tampa
Brian Simon	City of Clearwater	Mike McGuinness	City of Bradenton
John Swartz	Manatee County	Doug Jones	City of Bradenton
Daniel Marchick	Manatee County	Barbara Riley	City of Tampa
Yusef Tourey	City of Clearwater	John Carrion	City of Tampa

**CALL TO ORDER: 11:35 AM**

Doug Allen called the meeting to order at 11:35 AM and did the pledge of allegiance. Doug Allen asked for a motion to approve the minutes from the previous 08/08/2023 meeting, Christine Zien-McCombs then motioned to approve the minutes and a second was soon followed. Barbara Riley announced the Treasurer's report. Doug Allen introduced Keith O' Connor, Manager of City of Tampa Neighbor Enhancement Division. Keith O' Connor welcomed everybody and shared that TBACE is the first group to

hold a meeting in the new Tampa City Center community room. City of Tampa Code Enforcement Officer Chris Freeman announced that the lunch provided was from Papi's food market.

## **EDUCATIONAL PROGRAM:**

### *Introduction:*

Christine Zien-McCombs took stage and introduced the guest speakers, Kenneth Pope, Linda Shaljani and Dean DiRose. Ken Pope then introduced himself and briefly touched on information about court preparation. Ken Pope then asked for any questions and asked about the number of jurisdictions in the audience.

### *Topics:*

#### *1. Notice to Appear:*

Attorney Ken Pope described part 2 of Florida Statute 162 as being the "Worst of the worst." Mr. Pope explained the differences between magistrates and judges. Ken stated that the Notice to Appear, or NTA is a civil process. "In-direct" civil contempt of court potentially leads to jail and that they are Second degree misdemeanors. Ken described how civil contempt of court could lead to jail time for 6 months. Ken stated that when testifying in court, be respectful and have picture of each violation. Ken also shared that sometimes the Judge will schedule hearing at the property to get a better look. Ken described how the "Rules of evidence" don't apply to code board cases. Objections are more formal rules of evidence. Ken stated that Code Board's are good as long as they are fair, and that images are permissible if the respondent is not present. Ken described that in a court hearing, the Judge does not allow evidence if respondent is not present. Ken also mentioned that Code Enforcement boards can subpoena. Code Enforcement Boards can issue a subpoena if the respondent is not present and maybe go to county court issue show of cause. Ken asked about the number of different jurisdictions present. Ken stated that they are always looking for different tools and mentioned that foreclosures are unavailable if the property is homesteaded. Finally, ken said that when lien placed on one property it attaches to all other properties owned by the violator.

#### *2. Contest:*

Ken said that a contest goes to an affidavit of non-compliance and that the violator has 10 days from notice received and they can ask for a hearing. Ken described that typically at re-hearings respondents claim that they had material that would have made them in compliance. Respondent appeals are limited to one appeal and that it is "another bite at the apple."

#### *3. Depositions:*

Linda Shaljani took stage and introduced herself and said that she is assigned to the litigation division. Linda stated that depositions are part of the discovery process, it is the portion where both parties learn about the opposing evidence. Testimony under oath. Linda then shared her "3 Basic rules" to keep in mind when providing testimony. 1. Listen very carefully to the question asked and answer only the question, answer as briefly as you can, keep it brief, keep it simple. 2. Take your time. If you need to think about the question do so, take your time. 3. Stick to the facts, don't guess or speculate. If need to say you don't know or you don't remember its ok. Be brief, be concise, answer only the question asked. Linda then described "Read or waive" which is the transcript at end of deposition. Mentioned that depositions are due to code enforcement being witness testimony a "fact witness."

#### *4. Eminent Domain:*

Dean DiRose the took stage and introduced himself and stated that he is assigned to the eminent domain, property rights litigation Division. Dean described that "eminent domain" is the taking private property for public purpose. Dean shared that his office crosses paths with Code Enforcement when liens are attached to properties they are acquiring. Dean then

explained how Code Enforcement can affect eminent domain because of setbacks and non-conforming uses. Dean stated that there is a provision in Land Development Code to ask for legal non-conforming uses due to eminent domain unless they are already non-conforming and that they explain to property owners that they did not cause the violation because they were already in violation before the taking of the property. Dean said that Eminent domain is litigation. Dean shared that he started in Miami as public defender and that he believes that the Attorneys with most experience are former public defenders. Dean said "You got a file, you got a trial." Dean said that being in the courtroom can be an intimidating experience and that it's important to bear in mind that when you're in the courtroom you represent your department, and yourself in professional way. Dean described basic things about being before a judge, such as when he was public defender that the court room experience is competitive. Dean said that "Your job is to be a fact witness," and that it is human nature to wanting your testimony validated. He said that it's hard to not be competitive but that the Judge is fact finder. Dean shared practical advice and that it is more effective if you do not see yourself as an "advocate" for the case. Dean said that you're making prosecutorial decisions and that courtroom settings better as fact witness. Not every case perfect and don't try to be evasive, it is much easier to be consistent when discussing the matter. Deal with it the same every time. Dean also suggested that whenever your deposed, read the deposition because if you miss something it can lead to complications. Dean also suggested when giving testimony, such as being asked a question, or when the judge asks questions, or if other attorney asks question, "respond" to the judge because the judge is arbiter. Always direct your comments to the judge, and do not into a "back and forth" with the respondent.

*Question:* Is eminent domain the same as a lien? When a property has fines running, and a lien recorded, does one supersede the other.

*Answer:* Eminent domain is not the same as a lien. Eminent Domain is the process where a petition is filed in court and an order of taking is issued. Second phase of litigation is where jury decides what the property was worth. Where liens come in eminent domain is when the affected parties have ability to seek proceeds. The duration of a lien by statute is 20 years with interest accumulating. Fines run cap at 50% of property value.

**Presentation END: 1307 hours.**

**OLD BUSINESS:** None

**NEW BUSINESS:** None

**ANNOUNCEMENTS:** President Doug Allen reminded the audience that scholarships are now active. Doug Allen also mentioned that the online payment feature is still not available. Doug Allen reminded everyone that TBACE is now in new fiscal year and that membership renewals are due.

**Secretary:** None

**Treasurer:** Reported that the current balance on the treasury is \$6,467.72

**Vice president:** None

**President:** Thanked everyone for coming and thanked the City of Tampa for hosting the October meeting.

**ADJOURNMENT:** The meeting was adjourned 1:09 p.m.

Respectfully submitted by:

John Carrion

**Secretary,**

**Tampa Bay Association of Code Enforcement**

October 16<sup>th</sup>, 2023