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## More problems arise for KCB

By RICHARD TAMBORRINO Special to The Citizen

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The City of Key Colony Beach has been embroiled in a public battle for the past several months because of deep division between city leaders and residents regarding plans to rebuild city hall, a determination that will likely crystallize this week.

Now, the city's code and building departments are ramping up fines and penalties, which could further divide this small community.

And one of the more troubling trends at hand could also infringe on state law.

During the city's January Code Board meeting, increasing daily fines for infractions like lapsed vacation rental licenses was discussed. It was confirmed then that only the KCB City Commission has the authority to increase those types of fines. But even though the board cannot implement increased fines, at least two members tried to do just that.

While the concept of increased fines never passed, board members who were informed of their lack of authority at the January meeting tried to raise fines again in March. It's unclear whether a lack of understanding of local and state laws is present or whether some code board members are attempting to operate outside those laws.

Additionally, KCB's fiscal year 2022-23 adopted budget shows a line item of \$51,500 for "Court and Code Violation Fines," which is 40% higher from the "Fines and Forfeitures" line item in the FY 2021-22 budget.

One homeowner's case for an expired vacation rental license resulted in \$79,000 in fines assessed at \$500 per day for 179 days, said a city resident, who wanted to remain anonymous. The city ultimately settled with the homeowner for \$2,000.

Like any city, KCB is restricted in its fine levying. Reasonable fining is allowed but budgeting such an increase suggests a plan to crack down on non-compliance within the city, local observers say.

Perhaps to that end, the KCB Code Enforcement department, headed by Barry Goldman, has also ramped up efforts targeting egress windows in older homes.

Many homes in KCB built before the current building code — one story, ground-level duplexes — have "awning windows," which are hinged at the top and open at the bottom. Those windows are in question because they don't meet state egress requirements, so that occupants can exit, and fire personnel can enter, in the event of an emergency.

The Florida Building Code specifies that there be egress windows in all bedrooms. But research shows few, if any, municipalities in the state have enforced egress window guidelines.

Goldman said in an email that fire safety inspections of transient and non-transient public lodging establishments are required by Florida law. He also said the number of egress points, the size of the windows and other aspects of fire safety are all governed by Florida law, which incorporates National Fire Protection Act standards.

He stated that KCB “did nothing more than comply with the requirements of Florida law, making our rental community safer and eliminating unnecessary liability for owners.” He added “the city and the Marathon Fire Marshal condones our process.”

However, Marathon Fire Inspector Mike Card said by phone that Marathon is not conducting egress window inspections and it isn’t enforcing it, either. However, he did say that since KCB has implemented such inspections, Marathon may consider it. But he added he had “no idea why Key Colony Beach started enforcing it.”

Goldman also said by email that “not a single unit was cited by me for a failed inspection, nor has one been since. All units that failed said inspection for egress windows were given options, including an opportunity to continue renting the unit minus the non-compliant bedroom until the egress windows were made compliant.”

Perhaps most curious of all, though, involves KCB’s handling of its building department surplus over multiple fiscal years. Under Florida law, a municipality’s building department cannot show a net profit in any given fiscal year.

As an example, a concerted, albeit prolonged process was conducted by the city of Marathon to “balance” its building department budget by adjusting BPAS (Building Permit Allocation System) fees since the city had a building department budget surplus at the end of 2022. Refunding past BPAS fees and lowering future fees was approved by the Marathon council in April.

KCB appears to have had building department surpluses in previous years. If the collections and revenue generated by a city building department exceeds the expenses, state statute stipulates that “any unexpended balances must be carried forward to future years for allowable activities or must be refunded.” Among the

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many government functions which cannot be funded through a building department surplus are “planning and zoning or other government activities, and any program not directly related to the enforcement of the Florida Building Code.”

While no KCB city official has made any public comment about any surplus situations, Commissioner Tom Harding, who is also KCB’s secretary/treasurer in charge of the city budget, said by phone that excess building department revenue has been traditionally rolled over to the following year to pay other city expenses and to limit tax increases on residents. Per Florida law, that can’t be done, according to state statute 553.791.

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