

OPENING STATEMENT

CODE ENFORCEMENT ADMINISTRATIVE HEARING OFFICERS FOR VIRTUAL HEARINGS

My name is _____ and I am the Administrative Hearing Officer assigned to hear today's cases. These are hearings conducted by the Miami-Dade County Clerk of Court, Code Enforcement Division, in accordance with Chapter 8CC of the Miami-Dade County Code. Because of the COVID-19 pandemic, today's code enforcement appeal hearing is being conducted through various remote and virtual means, including through the Zoom™ application, an online virtual meeting platform, which will allow members of the public that received a code enforcement civil violation notice, otherwise known as a citation, to have a hearing to contest their citation, rather than appearing at an in-person hearing. Likewise, other members of the public have also been given the opportunity to observe the hearing through various remote and virtual means, including through the Zoom™ application. The purpose of these hearings, which are open to the public, is to give alleged violators the opportunity to contest the decision of the code inspector which resulted in the issuance of a civil violation notice. You may agree or disagree with the code enforcement inspector's decision and you may explain why you have appealed the charges.

The hearing is being recorded so that there will be an accurate record of the proceedings and of the final ruling made at the conclusion of these proceedings. Please do not speak when someone else is speaking as this will disrupt the ability to properly record these proceedings. For today's hearings, you will be muted by the hearing administrators until it is your opportunity to be heard during your hearing. Once you have been unmuted by the administrator, you will also need to unmute yourself if you would like to be heard. You may unmute yourself by clicking the unmute icon on your screen (microphone with a line through it). When you are finished speaking, if you choose to speak, you will click the same mute icon. It is important to mute yourself because it can cause interference with other speakers during the hearing if too many microphones are open. The mute/unmute icon will appear in different places on your screen depending on the type of device you are using to access Zoom.™ If you are having technical difficulties, please alert us by raising the virtual hand by using the "raise hand" icon in the Zoom tool bar, which may be located in a different area of your screen depending on the device or version used, much like the mute/unmute feature. If you are calling in via telephone you may raise a virtual hand by hitting *9 on your telephone keypad.

As a hearing officer, my responsibility is to hear testimony and to review evidence presented by code inspectors, and to hear testimony and to review evidence presented, if any, by the alleged violators. As you know, from the Notice sent to you, there was a deadline for both sides to submit to the clerk of court all evidence they wish to use during this hearing. Any evidence that was not timely submitted will not be considered during this hearing.

The Department has the obligation to go first and present its case. These officers and other Department staff will present the Department's case, including any evidence that was timely

submitted to the clerk of court. You will then have an opportunity to present your case, if you so choose, including the opportunity to show me any evidence that was timely submitted, to support your argument as to why the citation was incorrectly issued.

These hearings are conducted in a quasi-judicial manner. These hearings will not be conducted in accordance with the formal rules relating to evidence and witnesses. Any relevant evidence will be admitted, provided that it was timely submitted and submitted in accordance with the instructions contained within the Notice of Hearing, if I find that the evidence is competent and reliable, regardless of the existence of any common law or statutory rule to the contrary. All documentary evidence, otherwise known as exhibits, must be submitted for placement in the hearing file – this will be done by referring to the previously submitted evidence during the portion of the hearing when you are given the opportunity to speak and present your case. No documentary evidence will be considered unless it was timely submitted, submitted in accordance with the instructions contained within the Notice of Hearing, and unless the alleged violator or code inspector refers to it during the hearing. At the time you refer to any or all of the evidence you previously submitted, that piece of evidence will be shown on the screen for all to see, particularly me. Please refer to the evidence using the identifiers on the form for the evidence that you previously submitted to the clerk of court. If you need to see the form during your portion of the hearing, to help you identify a piece of evidence, please ask the clerk to show it on screen.

Each party shall have the right to call and examine witnesses, to introduce exhibits or evidence, to cross-examine opposing witnesses on any matter relevant to the issues, and to rebut the evidence against them.

It is required that all persons who testify as to facts be placed under oath or affirmation.

It is the hearing officer's responsibility to make findings of fact based on the evidence of record, including testimonial evidence. The fact finding determinations of the hearing officer are limited to:

1. Whether the violations alleged did occur, and
2. If so, whether the person named in the civil violation notice can be held responsible for those violations.

In order to make a finding affirming the code inspector's decision concerning a code violation, the hearing officer must find that a preponderance of the evidence indicates that the alleged violator was responsible for the violation of the relevant section of the Code as charged. If the hearing officer affirms the decision of the code inspector, the order will specify:

1. The amount of the civil penalty;
2. The surcharge;

3. The administrative costs of the hearing; and,
4. Where applicable, the date by which the violation must be corrected.

If the code inspector's decision is affirmed, the administrative costs may be both the costs for this hearing and the Department's costs of investigating this matter and attendance at this hearing.

As a hearing officer, I have no authority to modify the amounts of any civil penalty, the surcharge, or the administrative costs imposed for the violation.

If the code inspector's decision is reversed, which means that the alleged violator wins, there will be no civil penalty, no surcharge, and no administrative costs imposed for the alleged violation.

The hearing officer's decision may be appealed in accordance with the provisions of Section 8CC-8 of the Code of Miami-Dade County.

We will now commence the proceedings.

OATH

Department Staff: Department Staff testifying in this hearing should identify themselves by raising a virtual hand; and if they are unable to raise a virtual hand please wave at your camera until we recognize you aloud by name.

STATE NAMES OF DEPARTMENT STAFF THAT ARE TESTIFYING IN THE MATTER AND ASK CLERK TO UNMUTE THOSE IDENTIFIED, AND STATE, "PLEASE RAISE YOUR RIGHT HAND."

The Deputy Clerk in attendance will now swear you in.

Named Violator and any witnesses on behalf of the Named Violator: ASK CLERK TO UNMUTE the named violator and ask the named violator whether they have any witnesses that may be testifying on their behalf, and if so, ask them to name the witnesses; ASK CLERK TO UNMUTE ANY WITNESSES, AND HEARING OFFICER STATES TO NAMED VIOLATOR AND WITNESSES, "PLEASE RAISE YOUR RIGHT HAND," AND ASK CLERK TO SWEAR IN THE NAMED VIOLATOR AND THE WITNESSES.

After oath is administered, ask clerk to mute named violator and witnesses until the named violator's case begins, and proceed with Department's case.

* * AT BEGINNING OF EACH WITNESS'S TESTIMONY INSTRUCT ALL PERSONS TO STATE NAME AND POSITION FOR THE RECORD

THE ADMINISTRATIVE HEARING OFFICER'S CLOSING STATEMENT:

This is my final ruling in this matter. If you desire to seek review of my ruling, you must file a Notice of Appeal in the Circuit Court in and for Miami-Dade County, Florida, within 30 days of the date of this ruling. In doing so, the Respondent's name in the Petition should be "Miami-Dade County"

This hearing is now concluded; you may log out of Zoom™ or close the program; if you wish to observe other hearings, if any remain, the clerk of court will mute your microphone and turn off your video so you will no longer be visible. Thank you.