

**PASSAIC COUNTY CONSTRUCTION BOARD OF APPEALS  
MINUTES  
FEBRUARY 17, 2022**

Secretary Schlosser opened the meeting at 4:03 PM and read the notice that the requirements of the Open Public Meeting Act had been met. She then proceeded to call the roll.

**MEMBERS PRESENT**

1. Phillip Cheff, Chair
2. John Bleeker, Vice Chair
3. James Booth, Commissioner
4. Robert Lynch, Commissioner
5. Dennis Kolano, Alternate Commissioner
6. Nadege Allwaters, Counsel
7. Erin Schlosser, Secretary

**APPEALS TO THE BOARD**

**Tzvi Kleiman, 41 Lake Park Terrace, West Milford, NJ**

**PRESENT:** Robert P. Manetta, Esq., Attorney for the Appellant  
Tzvi Kleiman, Appellant  
Michael Moscatello, West Milford Fire Marshal

**VIOLATION:** N.J.A.C. 5:70-2.3 (a) Failure to obtain a certificate of smoke alarm, carbon monoxide alarm, and portable fire extinguisher compliance.  
*Recurring violation*

Mr. Manetta stated that the violation for failure to obtain a Certificate of Occupancy for a short-term rental is not a recurring violation and is a misunderstanding. Mr. Manetta stated that the Appellant did not intend to rent the property as a short-term rental. The Appellant received a violation for failure to obtain a CO when he first purchased the property due to a miscommunication between his title company and his attorney at the time. Mr. Manetta reiterated that the Appellant did not post the property as a short-term rental. It was brought to his attention by the Township of West Milford that the property was listed on Airbnb, a website for short-term rentals. Mr. Manetta stated that the Airbnb post was created by a friend of the Appellant and it was not authorized. Mr. Manetta stated that the Airbnb post had been removed and the friend who had posted the property to Airbnb had been sent a cease-and-desist letter. Mr. Manetta stated that the violation is not recurring based on the fact that the current violation is specific to a short-term rental.

Chairman Cheff stated that the violation in question was for failure to obtain a certificate of smoke alarm as per N.J.A.C. 5:70-2.3 (a) and asked Mr. Manetta to clarify what he was appealing.

Mr. Manetta stated that he was appealing the fact that the property was viewed as a short-term rental, as the Appellant did not have knowledge that the property was listed as a short-term rental and he had not authorized such. Mr. Manetta stated that the violations issued had completely different descriptions.

Mr. Moscatello stated that on September 20, 2020 the Township of West Milford issued a violation for failure to obtain a certificate of smoke detector compliance on the sale of the property. The matter went before the municipal court and the Appellant was found guilty and ordered to pay a fine. Mr. Moscatello stated that the Appellant received a smoke detector certification for the sale. Mr. Moscatello stated that in November 2021 the Township received complaints from neighbors of a short-term rental being conducted at the property. Mr. Moscatello stated that upon their investigation, the Township found an Airbnb post for the property with reviews from past stays. Mr. Moscatello stated that a Change of Occupancy had occurred as a result of the short-term rentals. Mr. Moscatello stated that violations of N.J.A.C. 5:70-2.3 (a) were issued in September 2020 for the sale and November 2021 for the change of occupancy. Mr. Moscatello stated that the property was posted on Airbnb on January 28, 2022 under the same name as the original Airbnb post. Mr. Moscatello stated that the violation was issued to the Appellant as the owner of the property.

Chairman Cheff asked if the property was rented.

Mr. Moscatello stated that there are reviews on the Airbnb post, including two reviews claiming to have stayed at the property in November 2021.

Chairman Cheff asked for clarification on the violation that was issued.

Mr. Moscatello stated that when the property was purchased, the Appellant did not receive a smoke detector certification for the sale. Mr. Moscatello stated that the Appellant is required to obtain a smoke detector certification for each change of occupancy, or seasonally.

Mr. Manetta stated that the Appellant has never rented out the property. Mr. Manetta stated that the Appellant is having issues with a neighbor filing complaints against the Appellant. Mr. Manetta stated that the profile that published the Airbnb post was temporarily suspended and became active after the suspension period ended. Mr. Manetta reiterated that the friend who had posted the property to Airbnb had been sent a cease-and-desist letter.

The Appellant thanked the Board for hearing this appeal. The Appellant stated that as per his conversations with the friend that posted the property to Airbnb, the property had never been rented. The Appellant stated that the post was created as a way of promoting another business in Florida. The Appellant stated that when he found out about the post, it was removed at his request. The Appellant stated that the property was never rented. The Appellant stated that the first violation was issued because he was not aware an inspection was required when he purchased the property. The Appellant stated that he is having problems with a neighbor filing complaints against him.

Chairman Cheff asked if the property was rented.

The Appellant stated the property was never rented and the reviews were written as a way of promoting a business.

Vice Chairman Bleeker read the reviews from the Airbnb post on the record.

Mr. Moscatello stated that he did not see anyone staying on the property and that his investigation was based on the documentation from the Airbnb post and meeting with property's neighbors.

Commissioner Booth asked if there were any police reports filed regarding the short-term rental.

Mr. Moscatello stated that the police were not called and that the neighbors had contacted the West Milford Zoning Board and West Milford Fire Department.

Commissioner Booth stated that there was no proof that anyone had stayed at the property as a short-term rental. Commissioner Booth stated that the violation should be dismissed.

Commissioner Booth made a motion to dismiss the violation due to lack of evidence. Commissioner Bleeker seconded the motion. The motion passed unanimously.

## **OFFICIAL BUSINESS**

A motion was made by Commissioner Bleeker and seconded by Commissioner Lynch to adjourn. The meeting adjourned at 4:29 PM.

The next meeting of the Board will be March 17, 2022.

/ s / Erin M. Schlosser  
Secretary, Passaic County Construction Board of Appeals