CITY OF OAKLAND
BUREAU OF BUILDING
PLANNING AND BUILDING DEPARTMENT

PROPERTY OWNERS: David Boyd and Patricia Weigt
PREMISES: 1001 Panoramic Way, Oakland, CA 94704 (hereinafter referred to as the "Premises")
Complaint No.: 1401537
Parcel No.: 048H 7698 024 02
HEARING DATE and TIME: November 18, 2014 at 11:00am

PARTIES PRESENT
Joel Golub, Hearing Officer
Denise Parker, Hearing Coordinator
Vera Gumby, Assistant Hearing Coordinator
David Boyd (hereinafter referred to as "Appellant")
Lindsay Frank, City of Oakland, Bridge Fellow Clerk
Chris Candell, Zoning Inspector, City of Oakland (hereinafter referred to as "Inspector Candell")

Evidence (letters, reports, notices, photos, Business Tax Certificate, photocopies of websites, emails etc.) was submitted either prior to or during the hearing, was considered and is included in the Hearing file.

DECISION

Facts

Inspector Candell testified to the following:

- A complaint was received regarding a business at the Premises in violation of zoning requirements
- As a result of the complaint Inspector Candell investigated the allegation by reviewing various websites
- He found a website for the Premises, identified as Panoramic Hills. It solicited weddings, conferences and special events
- Inspector Candell conducted a site inspection of the Premises on April 11, 2014
- He observed numerous non folding chairs stacked up to the ceiling within the residence, consistent with use for special events
- He spoke with groundskeepers working at the Premises on April 11, 2014. They indicated that the Premises was a site for special events and they cleaned up the Premises after such events

- He reviewed the Facility Rules and Use Agreement and related material from the Panoramic Hills website
- A Notice of Violation was issued on April 15, 2014.

Appellant asserts the following facts/defenses:

- The Premises is not used for "Group Assembly Commercial activity, catering and or holding events of any nature".
- The Premises is similar to a Bed and Breakfast, rentable for 3 day minimum for $3,000.00
- The Panoramic Hills Website is administered by another but under the control of Appellant
- The complainant had no legal standing to initiate a complaint because they are not an Oakland resident
- Appellant lives on the premises
- Appellant pays $30,000.00 in taxes each year
- The Business Tax Certificate allows Appellant to rent his real property and be excluded from zoning requirements.

Procedural History

A Notice of Violation was issued on April 15, 2014 specifying one (1) Zoning (Code) violation:

"Operation of a Group Assembly Commercial Activity, catering and or holding various events at this residentially zoned location (RH-1) is not allowed or conditionally allowed."
"OMC Section" [Oakland Municipal Code hereinafter referred to as "OMC"] "17.13.030 Permitted and Conditionally Permitted Activities, and Table 17.13.01". "Required Action", "Cease this activity".

- Appellant filed a Violation Appeal Form on May 19, 2014
- The Violation Appeal Form was reviewed and denied by Inspector Bill Quesada on May 19, 2014
- A Hearing was set and held on November 18, 2014.

Issues

1. May a non resident of Oakland make a complaint regarding a zoning violation?
2. Did Appellant's offering the Premises for rental violate the OMC definition prohibiting Group assembly commercial activities at that location?
3. Did the Oakland Tax Certificate exempt the Premises from OMC section 17.13.030
4. Did the violations of the OMC exist prior to the date of inspection?

Discussion

An investigation into a zoning violation may be initiated by a non resident of Oakland. To conclude otherwise would defeat the goal of promoting public safety. Zoning regulations are codified to promote safety and implement a coordinated and comprehensive development plan for the entire City of Oakland. It would expose the public to a potential risk of harm to ignore a complaint merely because the complainant did not reside in Oakland.

The Premises is zoned RH-1 (Hillside Residential), for lots of one acre or more. The intent of OMC section 17.13.010 is to "create, maintain, and enhance residential areas", "...single unit structures on hillside lots."

Section 17.13.030 and Table 17.13.01 lists "... permitted, conditionally permitted, and prohibited activities in the RH zones". It states that all commercial activities are prohibited in the RH-1 zone. Section 17.10.030 enumerates in more detail prohibited commercial activities to include "Group Assembly". Section 17.10.380 specifically defines group assembly commercial activities as the "... provision of instructional, amusement, and other services of a similar nature to group assemblages of people," including "... banquet halls".

Appellant argues that he is exempt from the zoning requirements of Chapter 17 of the OMC. He basis the exemption on a sentence on the Business Tax Certificate (hereinafter referred to as BTC). Appellant's reliance on a sentence on the BTC is misplaced and taken out of context. This is not a case of rental of real property rather it is a solicitation of group assemblies such as weddings, conferences or other special events. The sentence on the BTC does not supersede or negate the requirements of the OMC.

The Premises maintains a website entitled Panoramic Hills. It is replete with references to weddings, conferences and special events for large groups. It states we are "now available as a unique venue for your wedding, a conference or that special retreat". "Our location can serve up to 200 people" and "business established in 2012". Pricing quotes are "$5,000.00 for a wedding" and "$2,500/day for a retreat, conference or event", "$500/hour" if the event goes longer than the agreed upon period. Appellant admits that he controls the content of the material on the website. This Facility Rules and Use Agreement details the responsibilities of the Appellant and renter of the Premises for the large group event. Appellant stated that the Facility Rules and Use Agreement was copied from the "Brazilian Room" website.

On another website it announced the July 26, 2014 wedding at the Premises. On the "Yelp" website is a posting by the property owner that Panoramic Hills has been hosting social events since 2012.

Findings

The overwhelming presentation of credible evidence supports a finding and decision that the Appellant failed to comply with OMC 17.13.030 *et seq.* The activities specified in the Notice of Violation existed prior to and after April 15, 2014.

Therefore the Notice of Violation is sustained and the Appeal is denied.

Dated November 30, 2014

/s/ Joel Golub
Joel Golub
Hearing Officer

Joel Golub
153 Merano Street
Danville, CA 94526

November 30, 2014

PROPERTY OWNER: David Boyd and Patricia Weigt
PREMISES: 1001 Panoramic Way, Oakland, CA 94704
HEARING DATE: November 18, 2014 at 11am

INVOICE

File Review/Hearing prep	
November 16, 2014	.75 hr
Hearing	
November 18, 2014	1.25 hr
Decision/Research	
November 18, 2014	1.50 hr
November 19, 2014	4.00 hr
November 20, 2014	1.00 hr
November 21, 2014	.75 hr
November 29, 2014	.50 hr

9.75 hours x $150 = $1462.50

Total $1462.50