

MINUTES
FORT MYERS BEACH
Code Enforcement
Town Hall
2525 Estero Boulevard
Fort Myers Beach, FL 33931

Wednesday, December 30, 2015

Hearing Examiner - Special Magistrate: Mr. Joe Madden

Mr. Madden swore in those providing testimony.

CASES TO BE HEARD:

Property Owner: Estero Bay Hotel Company

SUBJECT: Violation of Resolution 15-05, Pertaining to DCI2013-0002

LOCATION: 414/416 Crescent Street – Restaurant

STRAP NO: 19-46-24-W4-0150E.0210 (parcel A)

CODE OFFICER: Molly Jacobs

REFERENCE NO: CE15-0416

Ms. Jacobs stated that outdoor entertainment was prohibited at the southern restaurant patio. To correct the violation, eliminate all outdoor entertainment at the southern restaurant patio area. A notice of violation was claimed by Estero Bay on 10-29-15 and the registered agent on 10-30-15. The notice of hearing was sent to Estero Bay and claimed on 11-19-15 and the registered agent on 11-23-15. Ms. Jacobs provided photos. She requested a finding of fact and \$250 per occurrence and she requested to waive the administrative fee.

Glen Petrarca, one of the respondents, acknowledged that the violation occurred and he agreed not to have live music in that area again. Mr. Madden found that the violation existed on 10-22-15 and it had been abated. No enforcement costs were levied.

Property Owner: Estero Bay Hotel Company

SUBJECT: TFMB Code of Ordinances – Ch 14, Article II (Noise Ord 15-01)

LOCATION: 414/416 Crescent Street – Restaurant

STRAP NO: 19-46-24-W4-0150E.0210 (parcel A)

CODE OFFICER: Molly Jacobs

REFERENCE NO: CE15-0432

Ms. Jacobs stated that Lee County Sheriff's Deputy Jelly responded to a noise complaint and he conducted a noise level reading from the property at 8:00 pm. The ambient reading from roadway consistent 54.1 dBA, back yard and seawall consistent 74.1 dBA with fluctuations between 69.8 dBA and 78.9 dBA. To correct the violation keep all noise levels below 72 dBA

between 7 am and 10 pm and 65 dBA between 10 pm and 7 am. Notice of violation and notice of hearing was claimed by Estero Bay on 11-19-15 and on 11-23-15 by the registered agent. If found in violation, the Town requested a fine of \$250 per occurrence and to waive the administrative fee.

The respondent, **Chris Arnburg (? spelling)** contested the reading taken by the officer and he provided a picture of the property to indicate where the reading was taken. He stated that his property was under the commercial land use and allowed decibel levels were higher for that use. Mr. Madden indicated that the reading was taken from the receiver's end, not the generating land use. Mr. Arnburg discussed establishment of use and encroachment of residential property. He noted that the deputy's report used dB as a measurement, not dBA or dBC, which were weighted values. Ms. Jacobs revealed that Deputy Jelly indicated that the noise meter was dBA rated. Mr. **Arnburg** remarked that he makes every effort to minimize noise with a sound system controlled by management. Mr. Petrarca stated that he took readings on the same day and time the complaints came in and his readings were never above 72 dBA. Mr. Madden took the case under advisement and he will either issue an opinion, or an order, or he'll ask the Town to reschedule the hearing.

Property Owner: Beachfront Escapes LLC

SUBJECT: LDC Sec. 10-7 & Sec. 10-122
LOCATION: 1710-1740 Estero Boulevard (Middle Area)
STRAP NO: 19-46-24-W4-0070A.0010
CODE OFFICER: Molly Jacobs
REFERENCE NO: CE15-0397

Ms. Jacobs inspected the property on 9-30-15 and 11-09-15 and pavers were installed without an LDO. Action necessary to correct the violation would be to obtain an LDO and pass all subsequent inspections. The notice of violation was claimed by the owner and registered agent on 10-02-15. The notice of hearing was claimed on 12-04-15. Ms. Jacobs provided photos from 9-30-15 and 12-29-15. She noted that a permit had not been obtained. She requested a finding of fact and to allow 20 days to obtain an LDO and pass all inspections. In the event the permit is not applied for, a \$250 fine per day with administrative costs waived would be assessed. Joe Orlandini, respondent, commented that he had applied for the permit and he requested 30 days to come into compliance. Mr. Madden gave Mr. Orlandini 25 days to come into compliance, otherwise a fine of \$250/day would be charged with the administrative fee waived.

Property Owner: Primeau Norman L TR

SUBJECT: LDC Sec.6 – 111
Adoption of Florida Building Code 105.1 Required
LOCATION: 1365 Estero Boulevard (Lehne Burger – Rear Bldg)
STRAP NO: 19-46-24-W4-0060B.0120
CODE OFFICER: Molly Jacobs
REFERENCE NO: CE15-0122

Ms. Jacobs withdrew the case due to abatement.

Property Owner: Tonino & Lynn Dimillo

SUBJECT: LDC Sec.6 – 111
Adoption of Florida Building Code 105.1 Required
LOCATION: 5790 Estero Boulevard
STRAP NO: 33-46-24-W2-0030B.0080
CODE OFFICER: Molly Jacobs
REFERENCE NO: CE15-0367

Ms. Jacobs inspected the property on 8-29-15 and found the deck was replaced without a permit. To correct the violation, the respondent must obtain a permit and pass subsequent inspections. Ms. Jacobs reviewed the history of the case. The notice of violation was claimed on 8-31-15 and the notice of hearing on 11-23-15. She requested they obtain a permit and pass subsequent inspections within 60 days or be charged \$250/per day with administrative fees waived. Tony Dimillo, respondent, stated that he did not intend to replace the deck but the foundation was rotten and the deck had to be replaced. He thought the permit had been taken care of years ago. Mr. Madden gave Mr. Dimillo 60 days to comply and he instructed him to contact code enforcement in the event he needed additional time.

Property Owner: Richard Manner EST

SUBJECT: LDC Sec.6 – 111
Adoption of Florida Building Code 105.1 Required
LOCATION: 1667 I Street
STRAP NO: 19-46-24-W4-0070B.005A
CODE OFFICER: Molly Jacobs
REFERENCE NO: CE14-0191

Ms. Jacobs stated that lot mowing had been abated; however, the property maintenance and violation still existed and work was being done without a permit. To correct the violations, repair deck and railing boards and replace all damaged siding and fascia. To come into compliance, stop deck repairs, obtain a permit and pass subsequent inspections. Ms. Jacobs noted that all notices were unclaimed because the owner had passed away. She asked for finding of fact, 60 days to abate the violations and \$250/per day with administrative fees waived. Mr. Madden entered an order to that effect.

Vote: _____ Signature: _____

- End of document