

MINUTES
FORT MYERS BEACH
Special Magistrate Hearings
Town Hall
2525 Estero Boulevard
Fort Myers Beach, FL 33931
Wednesday, March 4, 2020

Microphones cut in and out during hearing

Hearing Examiner - Special Magistrate: Myrnabelle Roche

Magistrate Roche swore in those providing testimony.
Town Attorney Herin, Jr. represented the Town.
Staff: Code Compliance Manager Daphnie Saunders.

CASES TO BE HEARD:

Violator: ROOT, DAWN
SUBJECT: Two Spaces
CODE SECTION: Sec. 28-20 (2)N
LOCATION: Mango St.
BASE OFFICER: Joe Kicha
REFERENCE NO: 73220490

Officer Kicha stated he observed the vehicle taking up two spaces. He issued a citation and placed it on the windshield. He provided accurate photographs and noted the fine was \$50.00. Manager Saunders included a \$75.00 administrative fee payable within 10 days. The respondent was not in attendance.

Magistrate Roche found that a violation existed and imposed a \$50.00 fine with administrative fees of \$75.00 to be paid within 10 days.

Violator: KELLER, JOSHUA
SUBJECT: Parking in Handicap Space
CODE SECTION: Sec. 28-20(2)L
LOCATION: Bay Oaks Lot
BASE OFFICER: Joe Kicha
REFERENCE NO: 73219871

Officer Kicha noticed a car without a placard in a handicap space. He issued a citation. He confirmed the notice of hearing was sent but was not sure of the response. The fine was \$200.00 and Town Attorney Herin, Jr. added an administrative fee of \$75.00. The respondent was not in attendance.

Magistrate Roche found that a violation existed and imposed a fine of \$200.00 plus \$75.00 in administrative fees to be paid within 10 days.

Violator: FELICIANO, CARLOS *WR*
SUBJECT: Overtime Meter
CODE SECTION: Sec. 28-51(A)
LOCATION: Old San Carlos
BASE OFFICER: Mark Pergoli
REFERENCE NO: 73600181

While patrolling on January 18, 2020, Officer Pergoli noticed a vehicle with an overtime meter. He issued a citation and provided accurate pictures. He stated that a notice of hearing was sent. The fine was \$35.00 and the Town requested \$75.00 in administrative fees. The respondent was not in attendance.

Magistrate Roche found that a violation existed and imposed a fine of \$35.00 plus \$75.00 in administrative fees to be paid within 10 days.

Property Owner: THIEL, TIMOTHY M *WR*
SUBJECT: LDC Section: 10-601, Sec. 10-603, Sec.10-605 Illicit Drainage
LOCATION: 464 Washington Ct.
STRAP NO: 29-46-24-W2-0110C.0160
CODE OFFICER: Steve Wick
REFERENCE NO: CE19-0214

Officer Wick stated the notice of violation and hearing were sent to the respondent and included in the file. They were posted and mailed. He utilized PowerPoint to display evidence of illicit drainage. He did not have contact with the property owner and the drainage issue had not been abated. The Town requested a finding of fact, 60 days to come into compliance; otherwise, a fine of \$250.00 per day will be imposed with a \$75.00 administrative fee to be paid within 10 days. Officer Wick explained the black plastic prevented proper drainage **and** had to be removed. Town Attorney Herin, Jr. stated that he would have to apply for a permit. Conversation followed. Tim Thiel stated that he extended the seawall to make room for a pool. He provided a survey and stated that he worked with the Town for the past two years and appeared in front of a former magistrate. After that appearance, no further action was required until now. He described how he improved the area. The area in question was 7.3 feet between his home and the neighbor. He complied with former Officer Bengé's requests to abate the problem. Mr. Thiel indicated that the neighbors installed seashells and irrigation without a permit and they encroached six feet on his property. He indicated that the membrane was installed before he purchased the house and it was torn and degraded but not the problem. He noted that the cul-de-sac flooded every time it rained. Mr. Thiel had estimates and he had to get a variance for the gap between the property and the canal. He explained drainage improvements he made to his property and commented that he would remove the plastic.

Magistrate Roche gave the applicant 60 days to develop a plan of action with the Town. She found that a violation did exist and she ordered the property owner to come into compliance within 60

days; otherwise, a fine of \$250.00 per day would be imposed in addition to \$75.00 in administrative fees to be paid within 10 days.

Property Owner: BURTON, SHIRLEY J 
SUBJECT: LDC Section: 6-111, Adopting FBC 105.1 Work Without Permit- Porch Enclosure
LOCATION: 166 Coconut Dr.
STRAP NO: 29-46-24-W2-0070A.0160
CODE OFFICER: Eli Lee
REFERENCE NO: CE19-0551

Office Lee's testimony. He had contact with the property owner. Magistrate Roche displayed pictures and clarified that the original structure was a screened enclosure. A notice of violation and a notice of hearing were sent to the owner and posted to the property. All evidence was in the file. The Town requested a finding of fact, 30 days to obtain a permit, and \$75.00 in administrative fees to be paid within 10 days. Manager Saunders requested that the Magistrate order a status report.

Shirley Burton started to explain but requested that her son continue. He showed an email to the court.

Magistrate Roche confirmed that they installed drywall and windows. She stated that they had to obtain an after-the-fact permit and encouraged them to work with the Town.

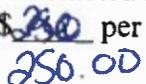
Magistrate Roche found that a violation existed and continued to exist. She ordered proper permits by April 16, 2020; otherwise, a fine of \$250.00 per day will be imposed. She ordered \$50.00 in administrative fees to be paid within 10 days. The file was admitted into the record.

Property Owner: WALLACE, LINDA 
SUBJECT: LDC Section: 6-111, Adopting FBC 105.1 Work without Permit- Bottom Enclosure
LOCATION: 15 Pepita St.
STRAP NO: 33-46-24-W2-0090B.0080
CODE OFFICER: Steve Wick
REFERENCE NO: CE19-0659

Officer Wick visited the property on February 2, 2020 and noticed work being done on the bottom floor and there was no permit on file. He mentioned flood elevation and explained habitable versus non-habitable spaces. He included pictures of the alleged violation in the file. The notice of violation and notice of hearing were sent to the owner and entered into the record.

The Town stated their request.

Linda Wallace thought the permit covered the whole building. She explained the history and stated that she had a plan and would obtain permits.

Magistrate Roche found that a violation existed and she gave the property owner 60 days to come into compliance; otherwise, a fine of ~~\$250~~  per day will be imposed plus \$75.00 in administrative fees to be paid within 10 days.

Property Owner: CUMMINGS, JOHN L *NS*
SUBJECT: LDC Section: 34-2391 Weekly Rental Restrictions, Weekly Rentals in Monthly Zone
LOCATION: 139 Curlew St.
STRAP NO: 34-46-24-W4-00034.0010
CODE OFFICER: Kristin Schumacher
REFERENCE NO: 20190820

Short-term Rental Coordinator Schumacher described how she was familiar with the property and mentioned online resources. Town Attorney Herin, Jr. verified that multiple rentals occurred in a month. Coordinator Schumacher described a rental advertisement and rental calendar. All evidence was entered into the record. She did not have contact with the property owner. She explained the registration process.

Norma Shae Norma ? testified something off microphone.

Town Attorney Herin, Jr. stated the Town requested they cease activities by the end of the month *something* within 30 days with \$75.00 in administrative fees.

Norma stated that they changed the ad. She provided a list of rented dates.

Magistrate Roche found that a violation existed and continued to exist. She ordered the property owner to come into compliance within 30 days; otherwise a fine of \$250 per day will be imposed plus administrative fees of \$75.00 to be paid within 10 days.

Property Owner: YANKE RONALD L *NS*
SUBJECT: LDC Sec. 14-455 Permit Required to Cut Mangroves
LOCATION: 298 Ohio Ave.
STRAP NO: 19-46-24-W4-0090F.0180
CODE OFFICER: Chadd Chustz
REFERENCE NO: 20190764

Town Attorney Herin, Jr. mentioned *something* about a status report and noted that an environmental consultant had been hired.

Ron Yanke explained the status with the DEP and other entities. Town Attorney Herin, Jr. noted that documents were in the file and entered into the record. Mr. Yanke requested that the fine be revisited. He stated he would appeal *something*. Town Attorney Herin, Jr. explained that the Town was willing to work with the property owner. *fined of \$1,500 imposed.*

Magistrate Roche entered an order giving the property owner until April 16, 2020 for a status report? *Additional time until* She ordered the property owner to pay \$1,500.00? Conversation continued.

This hearing was not about the fine. Request for extension granted.

Property Owner: KINKLE FAMILY INVESTMENT LLC *NS*
SUBJECT: LDC Section: 6-111, Adopting FBC 105.1 Work without Permit- Driveway
LOCATION: 140 Jefferson St.
STRAP NO: 29-46-24-W1-01300.0370
CODE OFFICER: Eli Lee
REFERENCE NO: CE19-0662

driveway was redone without a permit

Officer Lee described the violation, which the microphone did not pick up. He inspected the property and took pictures that reflected the condition of the property. He advised the property owner to apply for a permit. A notice of violation and notice of hearing were sent to the property owner, posted on the property and entered into the record. The property owner was not in attendance.

The Town requested \$250 plus \$75.00 in administrative fees to be paid within 10 days.

Magistrate Roche found that a violation existed and continued to exist. She ordered the property owner to come into compliance within 30 days; otherwise, a fine of \$250 per day will be imposed. She imposed \$75.00 in administrative fees. She continued with her order, which the microphone did not pick up.

30 days for compliance, payable within 10 days. Since house is for sale, this order is to be recorded in public record.

Property Owner: PERSAUD PROPERTIES FL INVESTMENT
SUBJECT: LDC Section: Sec. 14-5. - Beach Furniture and Equipment, Paragraph j
Beach Chair Rental without Permit
LOCATION: 1046 Estero Blvd.
STRAP NO: 24-46-23-W3-00016.0000
CODE OFFICER: Bill Stout
REFERENCE NO: CE20-0017

MS

The microphone did not pick up Officer Stout's testimony or most of the Town Attorney's questions. Town Attorney Herin, Jr. verified that the notice of violation and notice of hearing were sent to the property owner. The file was entered into the record. Town Attorney Herin, Jr. requested that it be treated as a repeat violation. Manager Saunders indicated that liens had been placed on both properties.

The Town requested immediate compliance and a \$500.00 fine per day. Town Attorney Herin, Jr. stated the property owner was advised of the violation but he continued to violate the code.

Magistrate Roche found that a violation existed and the property owner was a repeat violator. She imposed a one-time fine of \$500.00 and assessed \$_____.

Town Attorney Herin, Jr. disclosed something about a request for a continuance.

ordered property owner 24 hrs. to come into compliance; otherwise a fine of \$250/day will be imposed.

\$75 in admin fees payable in 10 days

Property Owner: PERSAUD PROPERTIES FL INVESTMENT
SUBJECT: LDC Section: Sec. 14-5. - Beach Furniture and Equipment, Paragraph j
Beach Chair Rental without Permit
LOCATION: 1028 Estero Blvd.
STRAP NO: 24-46-23-W3-00017.0000
CODE OFFICER: Bill Stout
REFERENCE NO: CE20-0018

Most of the testimony was not picked up by the microphone. Officer Stout verified that a notice of a violation and notice of hearing were sent to the property owner and in the file. Photographs indicated the violation still existed. The file was entered into the record.

The Town's request was inaudible.

Magistrate Roche found that a violation existed. She imposed a one-time fine of \$500 and ordered the property owner to come into compliance within 24 hours; otherwise, face of fine of \$250/day.

She impose \$75 admin fees payable within 10 days.

Property Owner: LETTERI, LONNE M TR FOR LONNE M LETTERI TRUST *nt*
SUBJECT: LDC Section: 34-2391 Weekly Rental Restriction, Weekly Rentals in Monthly Zone
LOCATION: 4830 Coral Rd.
STRAP NO: 28-46-24-W4-0010A.0080
CODE OFFICER: Kristin Schumacher
REFERENCE NO: CE19-0651

The microphone did not pick up the majority of testimony from Coordinator Schumacher. She provided a progression document and mentioned Officer Stout. Town Attorney Herin, Jr. confirmed that a rental calendar and the evidence that the property was available for rentals was in the file. Photographs were also in the file. Coordinator Schumacher did have contact with the property owner. She explained the registration process and noted the property owner was currently registered. Town Attorney Herin, Jr. verified that the notice of violation and notice of hearing were provided to the property owner.

Violation did exist and continues to exist. Magistrate Roche's order was inaudible. 30 days to comply; otherwise a fine of \$250/day shall be imposed. Plus \$75 in admin fee payable within 10 days

Property Owner: CELANO, MATTHEW & MARY LEIGH
SUBJECT: LDC Section: 34-2391 Weekly Rental Restrictions, Weekly Rentals in Monthly Zone
LOCATION: 4841 Coral Rd. *nt*
STRAP NO: 28-46-24-W4-0010B.0030
CODE OFFICER: Kristin Schumacher
REFERENCE NO: CE19-0656

Coordinator Schumacher stated the property owner was renting weekly in a monthly zone. She included rental calendars and reviews. Town Attorney Herin, Jr. verified that the notice of violation and notice of hearing were sent to the property owner and entered into the record.

The microphone did not pick up the Town's request or the Magistrate's order. *Violation did exist and continues to exist. 30 days to comply; otherwise a fine of \$250/day shall be imposed. Plus \$75 in admin fees payable w/in 10 days.*

Property Owner: ORTIZ DANIA CARBALLO + GARCIA DAISY
SUBJECT: LDC Sec. 6-111, Adopting FBC 105.1 Work w/out Permit - Remodel
LOCATION: 268/270 Nature View Ct. *nt*
STRAP NO: 20-46-24-W4-01700.0050
CODE OFFICER: Eli Lee
REFERENCE NO: CE18-0700 *continued*

Property Owner: MAALIKI, IBRAHIM EST + PATTON D
SUBJECT: LDC Section: 302.4 Overgrown Lawn *nt*
LOCATION: 190 Tarpon Rd.
STRAP NO: 03-47-24-W3-00232.0000
CODE OFFICER: Bill Stout
REFERENCE NO: CE19-0558

Town Attorney Herin, Jr. reviewed the background of the case and questioned whether it was still in violation. Officer Stout replied off microphone. Town Attorney Herin, Jr. noted they were in compliance and Manager Saunders added that they came into compliance after the compliance date. She requested that the citation fine and administrative costs be included in the lien. Magistrate Roche ordered a lien in the amount of \$325.00.

Property Owner: MAALIKI, IBRAHIM EST + PATTON D *us*
SUBJECT: LDC Section: 6-1, Adoption of IPMC; Sec. 301.2 Blight
LOCATION: 190 Tarpon Rd.
STRAP NO: 03-47-24-W3-00232.0000
CODE OFFICER: Bill Stout
REFERENCE NO: 20190778

\$25,750 Officer Stout testified that the hole had been filled in. Town Attorney Herin, Jr. requested a fine of ~~\$325.00~~ plus \$75.00 in administrative fees.

Magistrate Roche ordered a lien of \$25,825.00, which included \$75.00 in administrative fees and ordered that fines would continue to accrue at \$250.00 per day.

Case CE19-0528 entered into a compliance agreement. The status of CE18-0700, CE18-0724 and CE20-0068 are **unknown due to microphone failure.** *continued*

Signature: *Wt SK*

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