

SPECIAL MASTER CODE ENFORCEMENT HEARING OF NOV. 9, 1999

MINUTES
TOWN OF OCEAN RIDGE
SPECIAL MASTER CODE ENFORCEMENT HEARING
NOVEMBER 9, 1999

Present: Kevin Hennessy, Representing the Town Attorney, Gregory Dunham, Town Manager, Karen Hancsak, Town Clerk, Edward Hillery, Director of Public Safety and Lt. Stefan Katz.

Meeting called to order at 8:45 A.M.

A. Special Master Randy Zeldin approved the minutes of Oct. 12, 1999.

B. APPEAL REQUEST

2. Mr. Gene Moore, Representing Estate of Donald Neily who passed February 8, 1999, requesting a formal re-hearing before the Special Master to rescind a fine brought under Section 16-9 of Article I of the Ocean Ridge Code of Ordinances regarding a fine and subsequent lien for an Australian pine tree cited under Section 26-47 of the Ocean Ridge Code of Ordinances. CE 98-15.

Gene Moore, Esq. representing the Estate of Donald Neily, introduced himself as did Kevin Hennessy on behalf of the Town.

Special Master Randy Zeldin questioned whether there has been any attempt or even an intent to reach a stipulation regarding this case. Atty Moore stated that he had contacted the Town Attorney regarding settling this case, however, he was advised that since the Special Master already heard this case the town did not have the authority to stipulate.

Atty Moore summarized the chain of events leading up to this hearing by stating that a notice regarding the Australian pine tree was forwarded in the fall of 1998. He added that Mr. Neily, 98 years of age, was once a resident, however, he was moved to a nursing home in Maryland but was not declared incompetent. He stated that Mr. Neily died in February 1999. In April 1999 Mr. Meneely was appointed as the personal representative for his estate at which time he discovered Mr. Neily owned property in Florida that had an accruing lien of \$50 daily for an Australian pine tree violating the town's codes. Mr. Meneely contacted the Clerk and corrected several other violations and made arrangements to correct the tree violation. He stated that he felt this case was unique due to the age of the property owner and the fact that the owner was never properly noticed since the letters were sent to the daughter's business in Maryland and signed for by miscellaneous employees. He added that the fine was approaching \$15,000 and he felt that the town was over reaching for a fine in which the violation did not really cost or affect the town. He requested that the lien be waived, however, he offered to pay any reasonable administrative costs relating to this case.

SPECIAL MASTER CODE ENFORCEMENT HEARING OF NOV. 9, 1999

Atty Hennessy agreed with much of Atty Moore's statement adding that a letter was directed to the daughter, at her request because she was handling her fathers affairs, to her business address. The letter was signed for on Nov. 19, 1999. He also commented that prior letters regarding other violations had been forwarded to the same address and Mr. Meneely forwarded payment for these violations. Atty Hennessy advised that on Jan. 12, 1999 the original case was heard before the Special Master at which time a 30 day time period was given to correct the violation failing which would constitute a \$50.00 daily fine. He added that on Feb. 16, 1999 Lt. Katz observed that the violation still existed and a lien was then placed on the property which has been accruing until August 1999. A notice seeking reduction/release of the lien was then received from Mr. Meneely and submitted for the Oct. 12, 1999 meeting. He reminded Special Master Randy Zeldin that he dismissed the case with the opportunity for a 30 day re-filing.

Special Master Zeldin questioned whether the town could ascertain administrative costs associated to this case. The town advised that it was not readily available.

At this point Special Master Zeldin urged for a recess to attempt a settlement. The meeting was recessed at approximately 9:05 AM and reconvened at 9:15 AM.

Atty Hennessy and Atty Moore advised that both parties agreed to reduce the fines to \$5,000 as total payment. Atty Moore wrote a \$5,000 check payable to the town. Special Master Zeldin advised the Final Order would reflect the agreement and payment.

C. Violation Hearing

CASE NO. CE99-21 Shaden LTD, Inc.

% Alan Gainsford

RE: 39 Spanish River Drive

NATURE OF VIOLATION

Violating Sections 34-6(a), 14-1(a), and 14-136(c) by permitting the grass and weeds to grow on the lot in excess of 12 inches, failing to keep the construction site clear of paper, trash, and debris (construction material, etc.), and failing to spread within 10-days from the date of delivery fill material left on the construction site.

The respondent was not present. Special Master Randy Zeldin requested a continuance on this case due to a personal matter. The town agreed.

D. Adjournment

The meeting was adjourned at approximately 9:20 AM.

Town Clerk

