MINUTES
TOWN OF OCEAN RIDGE
SPECIAL MASTER CODE ENFORCEMENT HEARING
August 5, 2003

Present: Kathleen Dailey, Town Manager; Director Hillery; Karen Hancsak, Town Clerk; Lt. Stefan Katz, and Ken Spillias, Town Attorney.

Meeting called to order at 10:00 A.M.

A. The minutes of June 3, 2003 were adopted.

Special Master Torcivia explained that this was an informal hearing and rules of evidence were not required, however, the Town may have exhibits that a respondent has the right to make objections to. She added that the Town would present their case and she would render a decision and issue a Final Order since the respondent was not present.

At this point all individuals that were prepared to give testimony were sworn in.

B. VIOLATIONS

CASE NO. CE2003-10

Timothy Marshall and Kimberlee Duke Marshall, 28 Desford Lane, Boynton Beach FL 33435
RE: Lot 4, Block 2 Boynton Beach Park Subdivision (4 Coconut Lane)

NATURE OF VIOLATION

Violate Section(s) 67-174(a)(1), 67-174(a)(2), and 67-174(b) of the Town Code of Ordinances by not repairing all holes, cracks, breaks, deterioration, weathering and discoloration of the structure and appurtenances whether exposed to public view or not; and by failing to properly fit and maintain the exterior sliding glass door and screen door located in the backyard and by not removing all debris, crumbling stone and stucco from the side and back yard; nor cleaning weeds and growth from the roof and sides of the house; nor repairing outside electrical fixtures, not maintaining the exterior walls of the residence which are now weathered, chipped and are now in need of being painted, and also by allowing the property and residence to exist in a state that creates a blighting influence on the surrounding neighborhood.

The respondents were present.

Special Master Torcivia accepted the following evidence presented by the Town: the receipt of affidavit with Notice of Violation and attached code provisions as Exhibit #1; 10 photographs taken on June 9, 2003 and 10 photographs taken on Aug. 4, 2003 depicting the areas cited for blighting as Exhibit #2; and the Recovery Calculation Worksheet totaling $590.76 for administrative costs as Exhibit #3.

SPECIAL MASTER CODE ENFORCEMENT HEARING OF AUG. 5, 2003

Town Atty Spillias advised that this hearing was originally scheduled for July 1, 2003 but the notice was never delivered, however, he wanted the Special Master to be aware that from a timing standpoint this demonstrates how long this violation has been going on.

Special Master Torcivia determined that proper notice was given for this hearing.

Lt. Katz testified that on June 9, 2003 he observed the violations. He stated that the property had been abandoned some time ago and he has corresponded with the respondents on several occasions. He stated that the paint on the home has cracks and the back patio is broken among other violations. He stated that the property has been in this condition for 1-2 years and he even had discussions with the prior owner but they were never actually cited with a code enforcement violation. He added that the respondents have owned the property since approximately February of 2002. Lt. Katz commented that the town has received many complaints over the course of time regarding this property. Special Master Torcivia clarified that the home has been vacant for several years.

Special Master Torcivia asked what the relief the town was recommending. Atty Spillias suggested that demolition occur within 30 days (or 60 days from the time of the first violation of July 1, 2003) failing which would constitute a $100 daily fine and also to bring the rest of the lot into compliance such as weeds, overgrowth, and stumps. He also requested to be reimbursed for administrative costs totaling $590.76 (copy was shown to the respondents).

Mrs. Marshall stated that they purchased the property through a fee simple process with the prior owners' building plans, however, after completing some research it was determined that the better alternative would be to rebuild the home entirely. She added though that once the plans were completed it was discovered that the home was too big for the lot and so now it is in the process of being redesigned again. She stated that they too would like the existing structure down and the new one built but it has taken longer than expected. She added that they had documentation to reflect the events that have occurred.

Special Master Torcivia questioned the respondents what their plans were when they found out that the property would be cited for a code violation. Mrs. Marshall explained that Lt. Katz had knowledge of the ongoing events and suggested that they reach some sort of stipulation as to when the house would come down. Special Master Torcivia commented that Lt. Katz had advised that the respondent had originally agreed to 60 days to which Mrs. Marshall replied that the architect was proceeding slower than anticipated and it should be another month before the documents would be ready.

Mrs. Marshall stated that they felt it would be fair to require the house to be demolished by the end of the year and commented that they feel that they have tried to rush the process. Mr. Marshall stated that they were given a timeline by the architect and they spoke to Lt. Katz and even asked him to speak with the architect because the mortgage is based on the total project and otherwise they would have to pay the cost for demolition without the mortgage. He added that he felt everyone needed to be realistic on how quick it could get done, adding that they were probably about 3 weeks away from submitting plans and they could probably demolish the house in mid-November or possibly by the end of October.

Atty Spillias stated that while the Town sympathizes with the respondents the property has been an eyesore for a long time, even over a year in their ownership, and the demolition should not be not affected by the architect. He added that the Town was still asking for 30 days to achieve compliance.

SPECIAL MASTER CODE ENFORCEMENT HEARING OF AUG. 5, 2003

Special Master Torcivia stated that she was finding violation and the respondents must bring the property into compliance by October 3,2003 failing which would constitute a $150 daily fine. She added that once the property was brought into total compliance the respondent could request a fine reduction on any daily fines if necessary. She added that her order also includes awarding $590.76 administrative costs to be paid by Oct 3, 2003.

Mr. Marshall stated that he felt the fine was ridiculous because they were attempting the best they could to comply to which Special Master Torcivia advised that they could appeal to the Circuit Court. Mrs. Marshall questioned why if the property was in violation for such a long time and even before they owned it that it was not cited until now.

Town Clerk Hancsak was sworn in and stated that she had spoken with Mrs. Marshall on several occasions and each time Mrs. Marshall would advise how close they were to applying for the permit but when time kept lapsing and neighbors kept complaining it was finally cited for code enforcement action.

Special Master Torcivia commented that she has already rendered her decision and a Fine Assessment Hearing could be set for October 7, 2003 if necessary before a lien would be placed on the property for any outstanding fines or unpaid fees. She added that the Town Clerk could provide and explain the administrative fees awarded after the meeting.

Town Atty Spillias advised Special Master Torcivia that a previously postponed hearing regarding a fence violation would probably be heard on Sept. 2, 2003. He reminded her that she postponed her decision until the Commission took action regarding whether to abandon the rights-of-ways or retain them. He added that the Commission decided to keep all the rights-of-way and it could possibly result in litigation.

C. Adjournment

The meeting was adjourned at approximately 11:55 AM.

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Town Clerk