

MINUTES  
TOWN OF OCEAN RIDGE  
SPECIAL MASTER CODE ENFORCEMENT HEARING  
FEBRUARY 7, 2005

Present: D. Bill Mathis, Town Manager; Karen Hancsak; Town Clerk, Sgt. Eve Eubanks, and Kristen Bennett, representing the Town Attorney.

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

A. The minutes of Dec. 7, 2004 were adopted.

Special Master Paulette 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.

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

B. STATUS AND FINE ASSESSMENT HEARINGS

**CASE NO. CE#2004-19**

**Ocean Park Manor, President of Homeowners Association, John Barry, residing at Post Office Box 601, Oak Lawn IL 60454**

**RE: Lot 67 & 68 McCormick Mile Subdivision (6520 North Ocean Blvd., Ocean Ridge FL 33435)**

**NATURE OF VIOLATION**

Violate Sections 67-174 and 67-175 of the Town Code of Ordinances by presenting a blighting influence because jalousies are missing from several windows and several doors are missing, the exterior surface of the building shows deterioration: peeling, mildew, oxidation or is unpainted, exterior shutters have been removed leaving marks on the walls, the external lighting consists of a series of extension cords with drop lights attached, and some external light fixtures are hanging loose by exposed electrical wiring **(Final Order/Granting Continuance had specific compliance dates and fines attached) (Meetings were held on July 6, 2004, Oct. 5, 2004 and Dec. 7, 2004)**

The respondent, John Barry, was present and stipulated that the notice of this hearing had been received.

Atty Bennett summarized the prior meetings and orders and advised that the property is now in compliance for the windows/doors (as of Jan. 28, 2005) and electric (as of Dec.

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17, 2004). She added that painting was to be completed by this meeting and still is not totally complete. She stated that the Town would seek fines in the amount of \$14,000, which includes the \$1,000 fine assessed at the last meeting for the period of Dec. 3<sup>rd</sup> through Dec. 7<sup>th</sup> for the first violation and fines from today forward for the painting and the Town would also seek administrative fees in the amount of \$179.91.

Special Master Torcivia accepted the following as Town exhibits: the Final Order/Continuance dated Dec. 7, 2004 as #1; one page of photographs taken Feb. 7, 2005 by Sgt. Eubanks as #2, and the Administrative Cost Recovery Sheet in the amount of \$179.91 as #3.

Sgt. Eubanks testified that the property was re-inspected this date and one portion of the building that faces SR A1A has not been painted.

Special Master Torcivia accepted the following as Respondent exhibits: a letter from Action Building Inspections, Inc. dated Dec. 19, 2004 as #1; and a letter from Joe Quaider Window Sales as #2.

Mr. Barry, president of the complex, advised that a partial reason for the delay concerned the delay from the manufacturer due to the hurricanes and the painter has attempted to finish the painting but was met with rainy conditions as late as Sunday, Feb. 6, 2005.

Atty Bennett stated that while the Town was sympathetic to their situation everyone has been subject to the conditions of the property since April 2004 and they were given several compliance dates and it is still not in total compliance. She added that the hurricane can only be a crutch for so long.

Special Master Torcivia commented that she understood why the Town wanted to keep its standards however the hurricane still did affect areas. She questioned whether the respondents kept additional correspondence or a daily record regarding their progress as she originally suggested. Mrs. DiMatteo, secretary of the complex, stated that she did not have a written diary however she believed she had some written notes in her file at home. Special Master Torcivia gave Mrs. DiMatteo ten minutes to go and obtain any documentation regarding and timelines.

Special Master Torcivia commented that she planned on at least awarding the initial \$1,000, plus the \$179.91 administrative fees to be paid by Feb. 28<sup>th</sup>, and that the painting be completed by Feb. 11<sup>th</sup> failing which would constitute a \$250.00 daily fine starting from Feb. 11<sup>th</sup>.

Special Master Torcivia advised that she would proceed with the next case while she was waiting for the return of Mrs. DiMatteo.

C. VIOLATION HEARING

**CASE NO. CE#2005-01 Tracy Scala, 932 Jasmine Drive, Delray Beach, FL  
33483**

**RE: Lot 135, 135a and 136, McCormick Mile  
Addition No. 1 Subdivision (136 Island Drive)**

**NATURE OF VIOLATION**

Violate Section 67-150(c)(5) and Section 67-153(d) of the Town Code of Ordinances by allowing airborne sediments to constitute a nuisance for adjacent property owners and failing to provide the necessary control device or devices to protect adjacent properties from the results of wind erosion

Robert Poirier, General Supervisor for Mouw Associates, advised that he was representing the owner Mr. Tracy and Mrs. Tracy Scala at this hearing. Special Master Torcivia determined that proper notice had been given for the meeting after receiving the first two Town exhibits.

Special Master Torcivia accepted the following Town exhibits: a letter confirming that Mouw Associates was contracted for the demolition of the property as #1; the Certified Mail returned unclaimed to the Jasmine Drive address verbally given to Sgt. Hallahan by Mr. Scala and confirmed by Mr. Poirier as #2; one page of 3 photographs taken on 2/7/05 as #3; the administrative recovery sheet in the amount of \$235.54 as #4, and a composite including an e-mail from Shields Ferber and various memos as #5.

Sgt. Eubanks testified that she re-inspected the property this morning and took photographs. She advised that on January 12<sup>th</sup> Sgt. Hallahan spoke with Rick Mouw of Mouw Associates and he indicated that a water meter was to be installed within the next week and the area would be watered on a daily basis which still has not been done. She added that a portion of the construction protective fence has broken down and has not been repaired.

Atty Bennett advised that the Town was seeking reimbursement of administrative costs and that the owner take the proper measures to control the sediment by a time certain.

Special Master Torcivia commented that she would not tolerate hearing any complaints of retribution to the neighbor for making the complaint.

Mr. Poirier stated that they erected a barrier when the home was demolished, however, the hurricane damaged the fence, it was removed for the 2<sup>nd</sup> hurricane and re-erected but it was damaged by another contractor and has not been repaired. He added that he spoke with Mr. Ferber and erected a 2' high barrier; however, they have since decided to erect a 6' fence along Mr. Ferber's side of the property but they have not obtained the temporary electric needed to do the work. He also added that the water meter is in now so they can begin watering the property. He concluded by stating that he has left a couple of voice mails for Mr. Ferber within the last few days.

Special Master Torcivia commented that the e-mail from Mr. Ferber was a legitimate complaint and metal shavings could cause a lot of damage and advised Mr. Poirier to notify the owner of the potential dangers associated with BK Marine.

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Special Master Torcivia stated that she was finding that there was a violation and the condition must be brought into compliance by February 18, 2005 failing which would constitute a \$250 daily fine until full compliance is achieved and also that the administrative fees in the amount of \$235.54 be paid by February 28, 2005.

Mr. Poirier asked what would happen if all measures had been taken to blanket the airborne sediment but there was still a problem. Special Master Torcivia advised that it would then become a civil problem but the Town could show that they did everything possible to rectify the situation. She added that they should notify the Town of the efforts being made and to keep a log.

At this point **CASE NO. CE#2004-19** was continued.

Special Master Torcivia asked Mrs. DiMatteo if she had any type of written diary to which she advised not an actual diary but she said that the laundry doors were delivered 8/14/04, a new door delivery was received on 9/22/04 but the hurricane prevented timely work, they received major roof damage that had to be repaired first, and incorrect doors were discovered again and the new doors were not delivered until 1/19/05. Special Master Torcivia asked when the electrical permit was pulled to which Town Clerk Hancsak advised that the permit was applied for on 12/8/04 and passed final inspection on 12/17/04.

Special Master Torcivia advised that her order would include awarding the Town the administrative fees in the amount of \$179.91 to be paid by 2/28/05, assessing a total \$5,000 fine to be paid by 3/28/05, and requiring that the painting to be completed by Feb. 11, 2005 failing which would constitute a \$250 daily fine. She added that the respondents could request a fine reduction before the Town Commission and the staff could provide the code regarding appealing the fine.

D. ADJOURNMENT

The meeting was adjourned at approximately 11:20 AM.

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Town Clerk