

MINUTES
TOWN OF OCEAN RIDGE
SPECIAL MAGISTRATE/CODE ENFORCEMENT HEARING
May 2, 2006

Present: Karen Hancsak; Town Clerk, Sgt. Eve Eubanks, and Kenneth Spillias, Town Attorney.

Meeting called to order at 10:05 A.M.

Special Magistrate Lara Donlon 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. The two items on the agenda were switched because the respondent for CE#2006-04 was not present.

A. VIOLATION HEARING

**CASE NO. CE#2006-05 I.A. and Douglas Hauck, 8 Hudson Ave., Ocean Ridge
FL 33435**

**RE: Lot 6, Block 5, Boynton Beach Park Subdivision
(8 Hudson Avenue)**

NATURE OF VIOLATION

Violate Section 34-163(a) of the Town Code of Ordinances by creating an obstruction or encroachment on the public right-of-way without receiving written permission, in advance, for creation of the obstruction or encroachment from the Town Manager

The respondent was present.

Special Magistrate Donlon accepted the following Town exhibits: the Notice of Violation/Affidavit which included the hand delivery receipt as #1, Article IV of the Nuisance Code regarding Obstruction of Roads and ROW's as #2, photographs taken on April 23, 2006 and May 2, 2006 as #3, and the Recovery Calculation Worksheet in the amount of \$202.92 as #4.

Town Atty Spillias summarized the violation by stating that the code precludes planting in the ROW without permission and a license from the Town Commission. He stated that Hudson Ave. has had major drainage improvements that include swales and the respondent has planted 4 coconut palms without permission. He added that the respondent appeared before the Town Commission last night seeking the permission and license, however, the Town Commission denied the request based on the Town Engineer and Town Manager's recommendations.

SPECIAL MAGISTRATE CODE ENFORCEMENT HEARING OF MAY 2, 2006

Sgt. Eubanks testified that the Town Engineer, Lisa Tropepe, had brought this violation to her attention and she observed it on March 28, 2006 and in turn issued the notice of violation. She added that she took photographs on April 23 and May 2, 2006. Special Magistrate Donlon clarified that the coconut palms in question were the ones located closest to the street in the photographs.

Doug Hauck stated that he was unsure exactly when the trees were planted or if he put the trees there but he knows that they have been there prior to March 28, 2006. He mentioned that after the hurricanes other trees were knocked down and these new trees are not as high and therefore may not be as susceptible to damage during future storms. He added that he felt this enforcement was selective because there are other areas where there are encroachments and he did not feel his request was detrimental to the project or area and the license can be revoked at anytime. He also mentioned an ongoing lawsuit regarding easements and felt residents should have the right to ask for things on their property that does not adversely affect the area. In closing he stated that he would like an extension of 60 days because he did not agree with the Town Engineer's opinion nor anticipate a denial of the request by the Town Commission at their May 2nd meeting and he would like a chance to appeal because he did not feel he violated the Town Code.

Town Attorney Spillias stated that he had personal knowledge of the lawsuit and work completed on Hudson Ave. He stated that the pending lawsuit pertained to abandonment of the alleyways in the rear of properties. Regarding the drainage he advised that years ago there were swales on Hudson Ave., however trees and vegetation were planted over time and the ground built up which eroded the natural drainage and the road became impassable. He added that the road was raised, drains installed and swales were developed. At the time the Engineer worked with the property owners in regards to planting landscape on the up slope so that it would not be detrimental to the drainage improvements, however these coconut palms were planted in the down slope, 3-4' from the edge of pavement. He concluded by stating that the Town's position, including the Manager, Engineer and Commission, was that granting this request would start other requests and eventually block of the water flow. He stated that the Commission directed the Town Engineer to meet with Mr. Hauck to discuss an approved location to replant the trees. He added that they did not give a specific time but they were aware of the scheduled violation hearing today.

Special Magistrate Donlon stated that she did find there was proper notice and did find there was a violation. She stated that the violation must be brought into compliance by June 2nd failing which would constitute a \$100 daily fine that would be assessed at a hearing to be held on June 6, 2006 at 10:00 AM, and administrative costs in the amount of \$202.92 must be paid to the Town by June 2, 2006. She added that the respondent could appeal to the circuit court.

CASE NO. CE#2005-04 Charles A. Kyrne, 5550 N .Ocean Blvd. #110, Ocean Ridge FL 33435

**RE: 5550 N Ocean Blvd., #110, Ocean Ridge FL
33435 (Kings Bay, Crown Colony)**

NATURE OF VIOLATION

Violate Section 67-51 and 67-58 of the Town Code of Ordinances and Section 105.1 of the Florida Building Code by installing a whirlpool tub without first obtaining a permit issued by the Town Building Official

The respondent was not present.

Town Atty Spillias summarized the violation.

Special Magistrate Donlon accepted the following Town exhibits: the Notice of Violation/Affidavit which included the delivery receipt as #1, Property Appraiser Printout as #2, a letter from the Building Official, Joe Crisafulle, to the respondent dated Jan. 25, 2006 with copies of the sections/codes in violation as #3, and the Recovery Calculation Worksheet in the amount of \$220.49 as #4.

Sgt. Eubanks testified that she received an anonymous complaint and after the tenant permitted entry to the unit she observed the violation and subsequently forwarded the notice. She added that she had telephone contact with the respondent; however, no building permit has yet been applied for.

Town Clerk Hancsak testified that she too had contact with the respondent on several occasions and that the Building Official also spoke with a contractor regarding this violation approximately 1-2 weeks ago but no building permit was applied for.

Atty Spillias commented that the respondent must be experiencing difficulty in having a contractor apply for the plumbing and electrical work after the fact. He added that per the Florida Statutes Chapter 489, subsection 7, multi-family unit owners may not apply for a permit as an owner/builder. He stated that the Town was recommending a finding of violation with a \$50 daily fine until brought into compliance and recovery of the administrative costs.

Special Magistrate Donlon stated that she did find there was proper notice and that there was a violation. She stated that the violation must be brought into compliance by May 9th, 2006 failing which a \$50.00 daily fine will be assessed at a hearing set on June 6, 2006 at 10:00 AM, and the administrative costs in the amount of \$220.49 must be paid in full by May 9th, 2006.

D. ADJOURNMENT

The meeting was adjourned at approximately 10:50 AM.

Town Clerk