

MINUTES
TOWN OF OCEAN RIDGE
SPECIAL MAGISTRATE/CODE ENFORCEMENT HEARING
August 8, 2006

Present: Karen Hancsak; Town Clerk, Sgt. Eve Eubanks, Officer Wavell Darville, 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.

A. ADOPTION OF JULY 11, 2006 MINUTES

Special Magistrate Donlon adopted the July 11, 2006 minutes.

B. STATUS HEARING

CASE NO. CE#2005-68

Walter Stern, Post Office Box 1195, Boynton Beach, FL 33425

RE: Lot 7, Block 4, Boynton Beach Park Subdivision (17 Ocean Avenue)

NATURE OF VIOLATION

Violate Sections(s) 67-174(a)(1) and 67-175(8) of the Town Code of Ordinances by not maintaining the premises. The soffit is rotting and soffit screen is torn. There is a hole in the roof. The paint on the exterior of the house shows evidence of weathering. The exterior air-conditioning units, air-conditioning breaker box and meter box are rusted and there are exposed wires on the outside of the house.

Atty Spillias summarized the Final Order which advised that a Status Hearing would be held on this date to determine if appropriate agreements/contracts had been entered to correct the condition of the roof. He advised that as of this morning nothing had been formally submitted to any of the staff.

Special Magistrate Donlon accepted the following Town exhibits: the Administrative Recovery Sheet in the amount of \$183.64 as #1.

Mr. Stern advised that it was determined that it would be difficult for a glass atrium to pass the hurricane codes and therefore entered into a contract and order to replace the

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atrium with trusses and then reroof the entire roof. He advised that the trusses should be delivered anywhere between 9/14 – 10/14/06 and 3-4 weeks would be necessary after that to complete the work.

Special Magistrate Donlon accepted the sales order for the trusses as Respondent's Exhibit #1.

Special Magistrate Donlon advised that she did find there was proper notice and the violation continues to exist. Her order would state that the respondent has until Nov. 13, 2006 to totally complete the work or the case would be heard for a Status/ Fine Assessment Hearing on Nov. 14, 2006 at 10:00 AM. She advised that the Administrative Costs would be held off until the Nov. 14, 2006 hearing but stressed for the respondent to call in for a final inspection so as to the close this case.

**CASE NO. CE#2006-06 Allyn R. and Joseph R. Bryan, 3 Fayette Drive,
Ocean Ridge FL 33435
RE: Tropical Park Add #1 Subdivision Easterly
96.94' of Lot 1 (3 Fayette Drive)**

NATURE OF VIOLATION

Violate Section(s) 67-51 of the Town Code of Ordinances and Section 105.1 of the Florida Building Code, and Sections 110, 304, 101.6, 103.2.1, 307.4 and 305.3.2 of the Standard Building Code. This single-family residence was illegally converted into three (3) dwelling units without a permit. There are exposed wires on the outside of the structure. The porch deck and shower fixture in the rear of the house were not permitted. The walkway on the side of the house is broken and unsafe. The electrical box in the utility room in the rear of the house was exposed wires and exposed insulation. There are flammables and combustibles next to the hot water heater and exposed to outside temperatures, which constitutes a hazard. Screening is missing from the soffit. There is junk and debris around the perimeter of the house and outside storage of furniture, building material and equipment.

Town Atty Spillias summarized the Final Order which provided that the respondent provide evidence of approval for the 3rd unit located on the property by Aug. 7, 2006. He added that no evidence had been provided to staff.

Mrs. Bryan commented that she is still in the process of trying to obtain evidence, however, it appears that none of the agencies can trace back to 1955. She stated that she did receive a copy of a permit from the Town Hall but it appears that there were two

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different houses for the same parcel. She added that she has retained an attorney, Peter Clemons, to research the matter and unfortunately he could not be present for today's meeting. She advised that on one of the permits a survey reflected a structure that showed 2 story apartments. She said the Property Appraiser records from back then reflect a 2 bedroom/2 bath home. She mentioned again that the property is for sale and if necessary the 2 apartments could possibly be joined into one and she could pass the drawings on to the next owner. She added that she requested for her estranged husband to be present but obviously he was not in attendance. She requested another continuance so that her attorney could research the matter.

Atty Spillias stated that it did appear that currently there are two lots that were originally platted as one. He commented that the Town is understanding, however, administrative costs from the last meeting have still not been paid and there was a concern whether the property was being advertised as 3 units. He stated that if a continuance was granted the Town would propose that the property cannot be advertised as more than 2 apartments. Mrs. Bryan agreed to make this change on the MLS. He added that the Town was willing to hold off on submitting the Administrative Recovery Costs for this meeting pending the outcome of the Status/Fine Assessment Hearing.

Special Magistrate Donlon stated that she was inclined to set a compliance date. Mrs. Bryan responded by stating that the reason she is selling the property is because she cannot afford it and she would have no vested interest in renovating it. Special Magistrate Donlon stated that while she understood Mrs. Bryans' frustration the property has already been found in violation and unfortunately it is her and her husbands' responsibility to deal with the issue.

Atty Spillias suggested a deadline of Sept. 12, 2006 for proof of permission for the 3 units failing which by Oct. 31, 2006 the property must be brought into full compliance and a Status/Fine Assessment Hearing would take place on Nov. 14, 2006 provided the previous administrative costs are paid today. Mrs. Bryan stated that this suggestion seemed reasonable.

Special Magistrate Donlon advised that she did find there was proper notice and the violation continues to exist and her order would be in 2 parts. She stated that the respondent must bring evidence that the Town approved 3 units to the Sept. 12, 2006 10:00 AM meeting failing which the respondent must bring the property into full compliance with building/zoning regulations on or before Oct. 31, 2006, and a Status/Fine Assessment Hearing is set for Nov. 14, 2006 at 10:00 AM. She added that the administrative costs in the amount of \$220.00 must be paid by the end of today.

**CASE NO. CE#20006-36 Dr. Joseph Chalal, 31 Anna Street, Ocean Ridge
FL 33435
RE: Lot 9 Coastal Shores West Subdivision
(31 Anna Street)
NATURE OF VIOLATION**

Violate Section(s) 66-151(b)(7) of the Town's Code of Ordinances by not maintaining the trees on property so as not to come in contact or otherwise obstruct or interfere with power or other utility lines or facilities

The respondent was not present.

Town Attorney Spillias commented that the violation has been brought into compliance; however, the Administrative Recovery Costs in the amount of \$188.54 that should have been paid by July 18, 2006 have not been paid.

Special Magistrate Donlon accepted the following Town exhibits: the receipt for Hand Delivery of the Order Finding Violation as #1.

Special Magistrate Donlon stated that she would make a finding that the code violation was corrected, however, since the administrative costs in the amount of \$188.54 have not been paid, a \$50.00 daily fine is instituted from July 19, 2006 until paid in full.

C. VIOLATION HEARING

CASE NO. CE#2006-0011 Donna M. Miller, 5540 Osprey Drive, Ocean Ridge FL 33435

RE: Lot 6, Tropical Shores Subdivision (5540 Osprey Drive)

NATURE OF VIOLATION

Violate Section(s) 10-33 of the Town's Code of Ordinance by creating a nuisance by allowing her dogs to bark continuously in the presence of Affiant Officer Wavell Darville

Town Atty Spillias summarized the violation and added that there was a typographical error in the section cited however the description was accurate. He stated Section 10-33 was cited when it should have been Section 10-32.

Special Magistrate Donlon accepted the following Town exhibits: the Affidavit and Notice of Violation with the signed receipt as #1, the Administrative Recovery Costs in the amount of \$207.93 as #2, and 5 complaint reports as #3.

Officer Darville testified that on May 22, 2006 at approximately 5:50 PM he was at the corner of Osprey Dr. and Beachway and heard barking dogs. He proceeded to four properties south of Beachway and observed the dogs barking for 20 minutes. He stated that he issued a \$250 citation and because there have been previous violations and citations. He concluded by stating that his superiors directed him to schedule the respondent to appear before the Special Magistrate.

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Dave Schmidt, attorney representing the respondent (who was also present), asked Officer Darville if there have been any complaints since May to which he stated there had not been any additional complaints. Atty Schmidt questioned if procedurally the Notice of Violation is sufficient.

Ms. Miller commented that she had tried to address the complaints after each one, however, after the last complaint in May she now keeps the dogs inside.

Atty Spillias clarified that although the Notice of Violation usually allows time to comply, however, the respondent was cited in the past through the citation process but this violation is considered a single one time finding. Atty Schmidt moved to dismiss the case based on the way the code reads.

Special Magistrate Donlon stated that she did find there was proper notice and that a violation did exist, however, since it has been corrected she would not impose a fine or the administrative costs. She did stress to the respondent that any future violations can be considered as a repeat violation.

D. ADJOURNMENT

The meeting was adjourned at approximately 11:00 AM.

Town Clerk