

MINUTES
TOWN OF OCEAN RIDGE
SPECIAL MAGISTRATE/CODE ENFORCEMENT HEARING
August 5, 2008

Present: Karen Hancsak; Town Clerk, Keri-Ann Baker, Town Atty, and Sgt. Eubanks.

Meeting called to order at approximately 10:15 A.M.

There was an audience and all those intending on providing testimony were sworn in.

Special Magistrate Glen 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. He added that the Town would present their case and he would render a decision and issue a Final Order.

A. ADOPTION OF JULY 1, 2008 MINUTES

The minutes were approved and adopted.

Atty Baker requested that a couple of the cases be heard out of sequence and that Case 2008-13 be heard as the last case.

B. VIOLATION HEARING

CASE NO. CE#2008-045

William Canning, President of Turtle Beach Homeowners Assoc., residing 5101 N Ocean Blvd. #A, Ocean Ridge FL 33435

Re: Turtle Beach Condominium located at 5101 N Ocean Blvd.

NATURE OF VIOLATION

Violate Section/s 66-151(b)(7) of the Town's Code of Ordinances by failing to trim and maintain the trees so as not to come in contact or otherwise obstruct or interfere with power or other utility lines or facilities.

Atty Baker summarized the violation by stating that there were trees not maintained and therefore obstructing or interfering with the power or other utility lines or facilities and the property is still in violation.

Sgt. Eubanks testified that she took photos on May 26, 2008 and then re-inspected the property this date and observed that the property was in compliance except for the trees located on the west side.

Mr. Canning, president of the Turtle Beach Condo Assoc., stated that FPL was actually trimming the trees during this hearing and the property should be brought into compliance today. He questioned if there was a cost analysis done prior to the adoption of the ordinance pertaining to this violation to which Special Magistrate Torcivia advised him that he needed to discuss this issue with the Town Manager or Commission.

SPECIAL MAGISTRATE CODE ENFORCEMENT HEARING OF AUG. 5, 2008

Special Magistrate Torcivia accepted the following Town exhibits: Affidavit and Notice of Violation and Receipt of Affidavit as #1; Proof of Ownership as #2; Photographs from 5/26/08 and 8/5/08 as #3; and the administrative recovery worksheet in the amount of \$199.54 as #4.

Special Magistrate Torcivia stated that he did find there was proper notice and there was a violation and advised that the owner had 20 days to comply or face a fine up to \$50.00 per day to be determined at the fine assessment hearing. He also stated that the administrative recovery costs in the amount of \$199.54 shall be assessed if the property was not brought into compliance within the 20 days. He stated that a Fine Assessment Hearing will be scheduled for the 2nd day of September, 2008 at 10:00 AM if necessary.

A. STATUS HEARING/FINE ASSESSMENT

CASE NO. CE#2008-015

Fernando Carmons and Shelby St. James, 6780 N Ocean Blvd., Ocean Ridge FL 33435

RE: Lot 43, McCormick Mile Subdivision (6780 N Ocean Blvd.)

NATURE OF VIOLATION

Violate Section/s 67-51 of the Town's Code of Ordinances by removing bathroom and kitchen plumbing fixtures and cabinets without first obtaining a permit

Atty. Baker summarized the case and stated that the hearing was held last month for this property. She submitted the Order Finding Violation and added that respondent had not come into compliance nor paid the first administrative hearing costs. She requested that both administrative recovery costs be reimbursed and that the \$50 per day fine be imposed until brought into compliance.

Sgt. Eubanks testified that no permit has been applied for and the fees had not been paid.

Marty VanDyke, representing Gerard Scalf, Safeguard Properties was present and testified that the bank does not own the property yet and a foreclosure hearing had not been set yet.

Atty Baker stated that while the Town understood the circumstances it was still their duty to enforce the town codes and without a date or time for the foreclosure it could be in limbo for months. Town Clerk Hancsak mentioned that if the property had a lien placed on it they could appear before the Town Commission and request a reduction but no guarantees were given that they would reduce the lien.

Special Magistrate Torcivia accepted the following Town exhibits: the Order Finding Violation and certified mail receipts and unclaimed letter as #1; the first administrative recovery costs in the amount of \$213.44 as #2; and the second administrative recovery worksheet for this hearing in the amount of \$204.86 as #3.

Special Magistrate Torcivia stated that he did find the property was still in violation and the \$50 per day fine would start from July 22, 2008 and he would require reimbursement for the additional administrative costs in the amount of \$204.86 and the property can be

SPECIAL MAGISTRATE CODE ENFORCEMENT HEARING OF AUG. 5, 2008

liened. He reminded the respondent's representative that they could seek a lien reduction from the Town Commission with no guarantees.

B. VIOLATION HEARING (CONT)

CASE NO. CE#2008-016

Gary Kafka and Sondra Pastore, 40 Hibiscus Way, Ocean Ridge FL 33435

NATURE OF VIOLATION

Violate Section/s 67-51 of the Town's Code of Ordinances by replacing the wooden deck with concrete in the rear of the house, replacing the open wooden deck by the gazebo with concrete, installing a new wooden deck along the seawall, and installing a boatlift, all done without permits (**continued**)

Atty. Baker summarized the violation and the prior hearing and advised that the staff would testify.

Town Clerk Hancsak testified that the previous hearing had been continued to allow for additional information by both parties and also the fact that she was not there to testify regarding the normal permit procedure and how the final inspections are logged. She commented that a deck and dock had been installed without a building permit. She stated that she found the original permit, permit card and log for a seawall repair only and a gazebo repair at a later date. She presented this and the prior surveys submitted to the Special Magistrate. She advised that based on all the documents the dock and concrete deck was not included in any of the permits, citing that a proposed dock was part of the seawall work for DERM but not included in the Town permit because it appeared that it did not meet the setback requirements. She reiterated that the violation came about because someone complained to the Town Manager and Engineer regarding water run off from the property and once they inspected the property they discovered the dock and concrete deck. She mentioned the affidavit the family presented at the last meeting but stated she could not locate where any inspections were logged or finalized for the dock or deck.

Mr. Faller, present representing the owner, commented that they wanted to clean up this situation, however there were no monies to do the work and added that the dock and deck had been there for many years and questioned why a permit was necessary now.

Atty. Baker stated that regardless when the dock or deck was built there was still no permit obtained. She requested that it be found in violation for not having a permit for the dock and deck and they be given 60 days for compliance and failing which would begin a \$50 daily fine. She also requested that the administrative recovery costs for both hearings be reimbursed.

Special Magistrate Torcivia accepted the following Town exhibits: the administrative recovery costs for the first hearing in the amount of \$241.98 as #1; the administrative recovery costs for this hearing in the amount of \$204.86 as #2; and the original building permit for the seawall as #3.

SPECIAL MAGISTRATE CODE ENFORCEMENT HEARING OF AUG. 5, 2008

Special Magistrate Torcivia stated he did find there was a violation and he would grant 90 days to be brought into compliance failing which would constitute a \$50 daily fine and also that the administrative recovery costs in the amounts of \$204.86 and \$241.98 must be paid by Sept. 28, 2008. He stated that he was providing 90 days to provide time for the respondent to go back and attempt to find any older records or time to look for an engineer/s for the permitting. He stated that a Fine Assessment Hearing would be held on Nov. 4, 2008 at 10:00 AM.

CASE NO. CE#2008-036

Raymond and Cynthia Erickson, 110 Old Belden Hill Road, Wilton CT 06897

RE: Lot 16 & ½ Lot 15 Shore View (22/26 Hersey Drive)

NATURE OF VIOLATION

Violate Section/s 66-151(b)(7) of the Town's Code of Ordinances by failing to trim and maintain the trees so as not to come in contact or otherwise obstruct or interfere with power or other utility lines or facilities.

Atty Baker summarized the violation. She recommended that it be found in violation and brought into compliance by Aug. 29 failing which a \$50 daily fine would be imposed and only then would the administrative recovery costs in the amount of \$204.14 be imposed.

Sgt. Eubanks testified that the property was re-inspected this date and it was still in violation. She advised that she took photographs on 5/26/08 and also this date. She added that she spoke with Mr. Erickson who advised her that he spoke with FPL and they advised it was not their problem. She also stated that she too spoke with FPL and they advised they would inspect the property within the next 21 days.

Mrs. Erickson stated that they took down what they could safely accomplish. She also requested if necessary that the Fine Assessment Hearing be scheduled for October because they were going out of Town.

Special Magistrate Torcivia accepted the following Town exhibits: Affidavit and Notice of Violation and Receipt of Affidavit as #1; Proof of Ownership as #2; Photographs from 5/26/08 and 8/5/08 as #3; and the administrative recovery worksheet in the amount of \$205.14 as #4.

Special Magistrate Torcivia stated that he did find there was proper notice and there was a violation and advised the owner until Aug. 29, 2008 to comply or face a fine up of \$50.00 per day to be determined at the fine assessment and or status hearing. He also stated that the administrative recovery costs in the amount of \$205.14 shall be assessed if the property was not brought into compliance by Aug. 29, 2008. He stated that a Fine Assessment Hearing will be scheduled for the 7th day of October, 2008 at 10:00 AM.

SPECIAL MAGISTRATE CODE ENFORCEMENT HEARING OF AUG. 5, 2008

CASE NO. CE#2008-034

Daniel and Janice Spotts, 1 Sailfish Lane, Ocean Ridge FL 33435

RE: Palm Beach Shore Acres Blks A,B,&Z 10' of Wly 90' of Lot 10 & N 80' of Wly 90' of Lot 11 (1 Sailfish Lane)

NATURE OF VIOLATION

Violate Section/s 66-151(b)(7) of the Town's Code of Ordinances by failing to trim and maintain the trees so as not to come in contact or otherwise obstruct or interfere with power or other utility lines or facilities.

Atty Baker summarized the violation and stated it was still in noncompliance.

Sgt. Eubanks testified that she re-inspected the property today and it was still in violation. She produced a photograph taken on 5/26/08 and also this date showing the west side of the property. She added that she originally gave the respondent the wrong ordinance but hand delivered the correct one on 7/29/08.

Mr. Spotts submitted photos he had taken and also a download from FPL regarding trees and power lines questions and answers and read several portions. He commented that the lines are not drop down lines and are high lines on high utility poles. He stated that specifically trained trimmers are required to perform the work and that FPL has done the work themselves twice in the past and they have a 3 year maintenance schedule for this type of maintenance. He felt that if he were to have the work completed in the ROW it would be performing the work for FPL, Comcast, and ATT and it should be at no cost to him because they are in a ROW, not in an easement, adding the trees are not his and he does not maintain them. He added that he has been calling FPL since June with a subsequent telephone call this date and they advised that they would review it within 21 days.

Special Magistrate Torcivia stated that he agreed that FPL has a program to trim trees around the lines however the homeowner needs to maintain the ROW according to the town ordinance and that he was inclined to give until Aug. 29, 2008 to trim the trees.

Atty Baker stated that some of the trees are in the ROW but it is the homeowners responsibility to maintain and requested that this property be treated the same as the properties in violation because it may present a possible danger to other people.

Special Magistrate Torcivia accepted the following Town exhibits: Affidavit and Notice of Violation and Receipt of Affidavit as #1; Proof of Ownership as #2; the hand delivered Ordinance 555 as #3; Photographs from 5/26/08 and 8/5/08 as #4; and the administrative recovery worksheet in the amount of \$199.54 as #5.

Special Magistrate Torcivia accepted the following Respondent exhibits: 4 photographs depicting the trees in questions at various angles as #1; a copy of a portion of a survey as #2; and a download from FPL as #3. Special Magistrate Torcivia indicated that it appeared that the tree was at least partially on the respondent's property.

SPECIAL MAGISTRATE CODE ENFORCEMENT HEARING OF AUG. 5, 2008

Special Magistrate Torcivia stated that he did find there was proper notice and there was a violation and advised the owner until Aug. 29, 2008 to comply either by him or FPL or face a fine up of \$50.00 per day to be determined at the fine assessment hearing. He also stated that the administrative recovery costs in the amount of \$199.54 shall be assessed if the property was not brought into compliance by Aug. 29, 2008. He stated that a Fine Assessment Hearing will be scheduled for the 2nd day of September, 2008 at 10:00 AM.

CASE NO. CE#2008-047

**BRJ Properties LLC, 804 Scott Nixon Memorial Drive,
August GA 30907**

RE: Shore View Lot 8 (27 Hersey Drive)

NATURE OF VIOLATION

Violate Section/s 64-1(c) of the Town's Code of Ordinances by allowing short-term rentals of less than thirty (30) days at the residential property at 27 Hersey Drive

Atty Baker summarized the violation and stated that the town has struggled with the issue of transient rentals and adopted an ordinance providing for minimum 30 day rentals. She added that the Town was requesting that an order finding violation be on the record, the respondent agree not to rent for a period of less than 30 days, and also that the administrative recovery costs be reimbursed.

Sgt. Eubanks testified that the respondent has already been notified of a prior violation in January 2008 that was complied with prior to appearing at a hearing at that time and even though they have complied in this instance the Town wanted the ability to bring forth a repeat violation in the future if necessary.

Shannon Dawson, realtor for the property, and who also produced a Power of Attorney on behalf of the owners, stated that she assisted the 3 owners in purchasing the property. She added that the 3 owners and their friends use the property and she accidentally rented to a tenant, originally renting in Delray Beach, for less than the 30 days as a complete oversight. She added that she usually stipulates for a period of 30 days. She also stated the incident in Jan. 2008 involved a website on the internet that advertised for 28 days that was corrected immediately.

Special Magistrate Torcivia accepted the following Town exhibits: Affidavit and Notice of Violation and Receipt of Affidavit as #1; Proof of Ownership as #2; the rental agreement as #3; and the administrative recovery worksheet in the amount of \$205.14 as #4.

Special Magistrate Torcivia accepted the following Respondent exhibits: Power of Attorney as #1.

Special Magistrate Torcivia stated that he did find there was proper notice and a violation that has been corrected with no fines assessed. He was also requiring that the administrative recovery costs in the amount of \$205.14 be paid within 30 days.

SPECIAL MAGISTRATE CODE ENFORCEMENT HEARING OF AUG. 5, 2008

CASE NO. CE#2008-018

Michael and Sharon DuBose, 110 Gleason Street, Delray Beach FL 33483

RE: Palm Beach Shore Acres Blks A,B,&Z 100' of W 450' of N 65.28' of Lot 18 Blk A (32 Oceanview Drive)

NATURE OF VIOLATION

Violate Section/s 67-175(a)(2)(11), 67-177(a)(1)(2), 67-175(a)(6)(11), 67-174(a)(1), 67-177(a)(1), 67-175(a)(11), and 67-177(a)(3) of the Town's Code of Ordinances by demolishing a building with standing walls thereby leaving a potential hazard in a abandoned and unsecured state, having the property contain an accumulation of construction material, junk, debris, and furniture, standing walls appear to have some block falling away and the remaining walls present a blight to the neighborhood, and having a concrete slab within standing walls that has several areas cut out and thereby providing access to harbor vermin infestation

The respondent was not present.

Atty Baker summarized the violation.

Sgt. Eubanks testified that the property is considered a blight and safety hazard. She submitted photographs taken on 6/17/08 and this date and stated that it was still in violation.

Town Clerk Hancsak testified that the permit has expired and has not been renewed because the building official requested several issues be addressed prior to any renewal which has not been done.

Special Magistrate Torcivia accepted the following Town exhibits: Affidavit and Notice of Violation and Receipt of Affidavit as #1; Proof of Ownership as #2; photographs taken 6/17/08 and 8/5/08 as #3; and the administrative recovery worksheet in the amount of \$218.28 as #4.

Special Magistrate Torcivia stated that he did find there was proper notice and a violation exists. He gave the respondent until Aug. 29, 2008 to bring the property into compliance failing which would constitute a \$150.00 daily fine to be assessed at the Fine Assessment Hearing held on Sept. 2, 2008 at 10:00 AM. He added that the administrative recovery costs in the amount of \$218.28 be paid by Aug. 29, 2008.

CASE NO. CE#2008-026

Chad and Lisa Kendall, 10861 Denoeu Blvd., Boynton Beach FL 33472

RE: Amended Plat of Boynton Sub Nly 135.52' of Ely 163.16' of Muck Lot 38 Lyg W of SR A1A (6060 N Ocean Blvd.)

NATURE OF VIOLATION

Violate Section/s 66-151(b)(7) of the Town's Code of Ordinances by failing to trim and maintain the trees so as not to come in contact or otherwise obstruct or interfere with power or other utility lines or facilities.

SPECIAL MAGISTRATE CODE ENFORCEMENT HEARING OF AUG. 5, 2008

The respondent was not present.

Atty Baker summarized the violation.

Sgt. Eubanks testified that the original certified letter came back unclaimed approximately 2 weeks ago and the property was subsequently posted. She added that she received a telephone call from their attorney today and told that the owners were out of town but they advised that they would correct the violation.

Special Magistrate Torcivia accepted the following Town exhibits: Affidavit and Notice of Violation and Notice of Posting Violation as #1; Proof of Ownership as #2; photographs taken 5/26/08 and 8/5/08 as #3; and the administrative recovery worksheet in the amount of \$204.93 as #4.

Special Magistrate Torcivia stated that he did find there was proper notice and there was a violation and advised the owner until Aug. 29, 2008 to comply or face a fine up of \$50.00 per day to be determined at the fine assessment and or status hearing scheduled for Sept. 2, 2008 at 10:00 AM. He also stated that the administrative recovery costs in the amount of \$204.93 shall be assessed if the property was not brought into compliance by Aug. 29, 2008.

CASE NO. CE#2008-044

6393 North Ocean LLC, 979 Dale Road, Jenkintown PA 19046 and David Marvisi, 100 S Point Drive #5, Miami Beach FL 33139

RE: Boynton Beach Park S 125' of N 175' of Unmbrd Blk Lyg E of Ocean Blvd. (6393 N Ocean Blvd.)

NATURE OF VIOLATION

Violate Section/s 34-6(a) and 16-3(c) of the Town's Code of Ordinances by allowing the grass and weeds to grow in excess of 12 inches. This is a repeat violation.

The respondents were not present.

Atty Baker summarized the violation and stated this was a repeat violation.

Sgt. Eubanks testified that there were actually two owners notified regarding this violation, adding that Mr. Marvisi had appeared at previous meetings. She stated that the violation was observed on 7/3/08 and submitted a photograph taken this date.

Special Magistrate Torcivia accepted the following Town exhibits: The Affidavit and Notice of Violation with signed receipts as #1; Proof of Ownership as #2; 2 photographs taken 8/5/08 as #3; and the administrative recovery cost sheet in the amount of \$210.74 as #4.

Special Magistrate Torcivia found there was proper notice and the violation still exists and advised that a daily fine of \$250.00 per day is imposed beginning on 7/3/08 until brought into compliance and that the administrative recovery costs in the amount of \$210.74 are due immediately and that the property can be liened.

B. STATUS/FINE ASSESSMENT HEARING (CONTINUED)

CASE NO. CE#2008-013

Amy L. Cavanaugh, 5520 North Ocean Blvd. #205, Ocean Ridge FL 33435

RE: Paget House Condominium Co., Inc. Unit 205 (5520 N Ocean Blvd. #205)

NATURE OF VIOLATION

Violate Section/s 67-51 of the Town's Code of Ordinances by removing drywall and the bathroom toilet and sink without a permit

The respondent was not present.

Town Clerk Hancsak stated that this violation has been brought into compliance with the exception that the contractor has not submitted his registration documents and they were supposed to be faxed in prior to the end of this meeting. She suggested allowing 5 days for the contractor to properly register or assess a \$50 daily fine at the Fine Assessment Hearing to be held on Sept. 2, 2008 at 10:00 AM.

Special Magistrate Torcivia advised that he would prepare the order providing for additional 5 days thereby permitting the contractor to properly register failing which a \$50 daily fine would be imposed until compliance is met at the Fine Assessment Hearing to be held on Sept. 2, 2008 at 10:00 AM.

D. ADJOURNMENT

The meeting was adjourned at approximately 11:55 AM.

Town Clerk