

MINUTES
TOWN OF OCEAN RIDGE
SPECIAL MAGISTRATE/CODE ENFORCEMENT HEARING
July 7, 2009

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

Meeting called to order at approximately 10:00 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 intending on providing testimony were sworn in.

A. ADOPTION OF JUNE 2, 2009

The minutes were adopted as written.

B. STATUS/FINE ASSESSMENT HEARING

**CASE NO. CE#2009-015 Malgorzata and Nicholas Chimienti, 6230 N
Ocean Blvd., Ocean Ridge FL 33435**

**RE: Lot 9, Blk 2, Boynton Beach Park
Subdivision (41 Coconut Lane)**

NATURE OF VIOLATION

Violate Section/s 67-174(a)(1)(2) of the Town of
Ordinances by not maintaining the property

The respondent, Margaret Chimienti, was present.

Atty. Baker summarized that the property owner was found to be in violation at the last hearing with a fine of up to \$250 per day for noncompliance. She requested that the respondents be assessed a fine of \$50 per day until compliance is met and reimbursement for the administrative recovery costs for this hearing. She added that Sgt. Eubanks re-inspected the property this date and no improvements have been made.

Special Magistrate Donlon accepted the following Town exhibits: a copy of the Final Order with the proof of delivery as #1; and the administrative recovery sheet in the amount of \$266.85 as #2.

Mrs. Chimienti apologized for not appearing at the last hearing citing health problems for both she and her husband. She also apologized for the condition of the property citing issues involving the insurance company, the public adjuster and lack of funding thus preventing any improvements. She stated that the property was in the process of a short sale with a possible contract for purchase and any liens on the property would have to be paid by them and she was afraid that this would affect the sale.

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After speaking with staff, Atty Baker suggested that the Special Magistrate find that the violation continues to exist, assess the administrative fees for this hearing and suspend any fines at this time with the condition that an update be provided.

Special Magistrate Donlon stated that she did find there was proper notice and the violation continues to exist. She stated that the town is entitled to a daily fine but she would grant a request for a continuance until the Status Hearing to be held on Aug. 4, 2009. She added that she would require the \$266.85 administrative costs be paid prior to August 4, 2009.

B. VIOLATION HEARING/S

CASE NO. CE#2009-025 Richard Lessow, President of the Dunes of Ocean Ridge Condo Homeowners Assoc., 30 Highwood Road, Simsbury, CT 06070
RE: Dunes of Ocean Ridge Condominium (6711 N Ocean Blvd)

NATURE OF VIOLATION

Violate Section/s 67-51 of the Town's Code of Ordinances by constructing a wall on the common area between Units 20 and 21 without a permit

Town Atty Baker summarized the violation and advised that the violation was originally noticed on May 30, 2009, the respondent received the notice on June 25, 2009 and the property is still in violation.

Sgt. Eubanks testified that she was notified by the Town Hall to check on several walls that were constructed without a permit. She observed the violations on May 30, 2009 and took photographs and forwarded an Affidavit and Notice of Violation to Richard Lessow, President of the Homeowners Association.

Special Magistrate Donlon accepted the following Town exhibits: the Property Appraiser sheet showing ownership as #1; photograph taken on May 30, 2009 as #2; the Notice of Violation with tracking and certified mail receipt as #3; photograph taken by Sgt. Eubanks on July 6, 2009 as #4; and the administrative recovery sheet in the amount of \$266.85 as #5.

Atty Baker recommended that the violation be corrected either by obtaining a permit or removing the wall within 30 days or if noncompliant assessing a \$50 daily fine and also reimbursement of the administrative fees.

Vicki Hull, employee of Lang Management who manages the Homeowners Association, stated that the wall was constructed under a prior president and they were not disputing the violation and plan on removing the wall and replacing it with landscaping. She apologized for the time and effort and added they were prepared to pay the administrative fees.

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Special Magistrate Donlon stated that she did find there was proper notice and that a violation exists and the respondents would be given 30 days to come into compliance, failing which she may impose up to a \$250 daily fine. She stated that her order would include reimbursement of the administrative recovery costs in the amount of \$266.85 to be paid within 30 days. A Status/Fine Assessment Hearing is scheduled for Sept. 1, 2009 at 10:00 AM.

**CASE NO. CE#2009-018 RCH Realty LP, 290 Bilmar Drive, Pittsburgh
PA 15205**

**RE: Lot 107 McCormick Mile Addition #1
Subdivision (107 Bonito Drive)**

NATURE OF VIOLATION

Violate Section/s 67-174(a)(1) of the Town's Code of Ordinances by not maintaining the property at 107 Bonito Drive, i.e. sinkhole in driveway, roof contains mold and is missing flashing, wood deck in rear of house is splintering and deteriorating, possible structural defect in bay window, erosion at the foundation of structure thereby also possibly creating breeding ground for vermin

Atty Baker summarized the violation and stated that it was noticed on May 30, 2009 and the Notice of Violation was signed for via certified mail on June 9, 2009. She stated it appears some cosmetic changes have been completed (possibly without a required permit). She recommended that the respondent be given 30 days to fully comply or assess a \$50 daily fine and they be assessed the administrative recovery costs.

Sgt. Eubanks testified that she observed the violation on May 9, 2009 and because of the foundation problem she requested that Building Official inspect the site. He advised her that the corrected violation would require a structural engineer to testify that the foundation is sound. She added that she spoke with the owner, Rick Hvizdak, who advised on July 2, 2009 that the deck was fixed, the roof has been pressure cleaned and the engineer would be at the site next week. She stated that he advised that the driveway was repaired but she provided photographs showing it had not been corrected.

Special Magistrate Donlon accepted the following Town exhibits: the Property Appraiser sheet showing ownership as #1; photographs taken on May 30, 2009 as #2; the Notice of Violation and proof of delivery as #3; photographs taken on June 1, 2009 as #4; photographs taken on July 6, 2009 as #5; and the administrative recovery sheet in the amount of \$266.85 as #6.

Atty Baker advised that the Town noted that some of the repairs had been made but it was still in noncompliance.

Special Magistrate Donlon stated that she did find there was proper notice and that some violations still existed. She would order compliance within 30 days failing which could

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result in up to a \$250 per day fine. She added that the respondent must also pay the administrative recovery costs in the amount of \$266.85 within 30 days. A Fine Assessment/Status Hearing is scheduled for Sept. 1, 2009 if the property is still in noncompliance.

CASE NO. CE#2009-027 Gary Kafka and Sondra Pastore, 40 Hibiscus Way, Ocean Ridge, Florida 33435
RE: Lot 21, Ocean Ridge Beach Subdivision (40 Hibiscus Way)

NATURE OF VIOLATION

Violate Section/s 66-151(b)(7) and 34-1 of the Town's Code of Ordinances by not trimming and maintaining the Palm tree in front of their house. The Palm tree appears to be dead and the Palm fronds are lying across utility lines. Also in violation for allowing the weeds and grass on their property to grow in excess of 12 inches in height

The respondent was not present, however, a member of the audience wished to address this violation.

Atty Baker summarized the violation, adding that it was observed on June 8, 2009 and continues to exist.

Sgt. Eubanks testified she took photographs on June 8, 2009 and the violation continues to exist. She also mentioned that the pool water is brown.

Special Magistrate Donlon accepted the following Town exhibits: the Property Appraiser sheet showing ownership as #1; photographs taken on June 8, 2009 as #2; the Notice of Violation and proof of delivery as #3; photographs taken on July 6, 2009 as #4; and the administrative recovery sheet in the amount of \$266.85 as #5.

Atty Baker stated that the mismanagement of this property is an ongoing problem and she requested 30 days to be brought into compliance or impose a \$50 daily fine and reimbursement of the administrative recovery costs.

Nancy Hogan, 37 Hibiscus Way, adjacent neighbor to the respondent, commented that there have been issues with this property for over a year. She advised that the family was attempting to take care of the property but nothing has been done lately and she did not know how the town could allow this to keep happening. She commented that as a community everyone should work together and felt that there are things that could be done. She stated that the palm fronds that were hanging on her wires have now fallen to the ground, however; now it may attract termites and insects and a few fronds still touch some of his wires.

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Atty Baker stated that the staff appreciated and sympathized with her comments but even if it were legal to mow the property it is beyond the Town's capabilities and steps have been taken action to attempt to have the conditions improved and felt it was a step in the right direction.

Special Magistrate Donlon stated that she did find there was proper notice and that some violations still existed. She would order compliance within 30 days failing which could result in up to a \$250 per day fine. She added that the respondent must also pay the administrative recovery costs in the amount of \$266.85 within 30 days. A Fine Assessment/Status Hearing is scheduled for Sept. 1, 2009 if the property is still in noncompliance.

CASE NO. CE#2009-021 Delmer C. Gowing III and Betty Gowing, 6711 N Ocean Blvd., #12, Ocean Ridge FL 33435
RE: Dunes of Ocean Ridge Condominium (6711 N Ocean Blvd #12)
NATURE OF VIOLATION
Violate Section/s 67-51 of the Town's Code of Ordinances by constructing a stack block wall on the rear patio without a permit

The respondent was not present.

Atty Baker summarized the violation and advised that the condition has not been corrected; however, the Town has received a letter from Collum Engineering, Inc. stating that they were working with the Delray Gardens Center, Inc. to prepare plans to remedy the freestanding walls to meet the Florida Building Codes. The letter also stated that the plans should be ready within 21 days from June 29th and all remedies will be performed to fully comply within 60 days. Atty Baker stated that the Town felt 60 days was too long and requested 30 days to comply or assess a \$50 daily fine. She also requested reimbursement of the administrative recovery costs.

Sgt. Eubanks testified that she observed the violation on May 30, 2009 and took photographs and prepared the Affidavit and Notice of Violation.

Special Magistrate Donlon accepted the following Town exhibits: the letter from Collum Engineering, Inc. as #1; the Property Appraiser sheet showing ownership as #2; the Notice of Violation and proof of delivery as #3; photographs taken on July 6, 2009 as #4; and the administrative recovery sheet in the amount of \$266.85 as #5; and photographs taken on May 30, 2009 as #6.

Special Magistrate Donlon stated that she did find there was proper notice and that a violation exists and the respondents would be given 30 days to come into compliance, failing which she may impose up to a \$250 daily fine. She stated that her order would include reimbursement of the administrative recovery costs in the amount of \$261.31 to

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be paid within 30 days. A Status/Fine Assessment Hearing is scheduled for Sept. 1, 2009 at 10:00 AM.

CASE NO. CE#2009-024 Donna Drescher, 350 Sheridan Road, Glencoe IL 60022

RE: Dunes of Ocean Ridge Condominium (6711 N Ocean Blvd #19)

NATURE OF VIOLATION

Violate Section/s 67-51 of the Town's Code of Ordinances by constructing a stack block wall on the rear patio without a permit

The respondent was not present.

Atty Baker summarized the violation and advised that the condition has not been corrected; however, the Town has received a letter from Collum Engineering, Inc. stating that they were working with the Delray Gardens Center, Inc. to prepare plans to remedy the freestanding walls to meet the Florida Building Codes. The letter also stated that the plans should be ready within 21 days from June 29th and all remedies will be performed to fully comply within 60 days. Atty Baker stated that the Town felt 60 days was too long and requested 30 days to comply or assess a \$50 daily fine. She also requested reimbursement of the administrative recovery costs.

Sgt. Eubanks testified that she observed the violation on May 30, 2009 and took photographs and prepared the Affidavit and Notice of Violation.

Special Magistrate Donlon accepted the following Town exhibits: the letter from Collum Engineering, Inc. as #1; the Property Appraiser sheet showing ownership as #2; photographs taken on May 30, 2009 as #3; the Notice of Violation and proof of delivery as #4; and photographs taken on July 6, 2009 as #5; and the administrative recovery sheet in the amount of \$266.85 as #6.

Special Magistrate Donlon stated that she did find there was proper notice and that a violation exists and the respondents would be given 30 days to come into compliance, failing which she may impose up to a \$250 daily fine. She stated that her order would include reimbursement of the administrative recovery costs in the amount of \$266.85 to be paid within 30 days. A Status/Fine Assessment Hearing is scheduled for Sept. 1, 2009 at 10:00 AM.

C. ADJOURNMENT

The meeting was adjourned at approximately 11:20 AM.

Town Clerk