

MINUTES  
TOWN OF OCEAN RIDGE  
SPECIAL MAGISTRATE/CODE ENFORCEMENT HEARING  
September 1, 2009

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

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

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.

At this point all individuals intending on providing testimony were sworn in.

Atty Baker mentioned that Attorney Harvey Oyer, representing Delmer and Betty Gowing through Marilyn Davis, was present to discuss the Order Finding Violation to the Gowings'. She added that the Gowing Case was heard in July and should actually have been postponed along with the Davis case. She added that the Town will not oppose to have that finding set aside.

Atty Oyer summarized by stating that a joint wall was constructed between the Davis and Gowing residences at the Davis' request and that the Gowings should bear no responsibility.

Special Magistrate Torcivia advised that he would vacate the order pertaining to Case No. CE#2009-021- Gowing and remove any fines that have been assessed.

Atty Baker requested to address Case No. CE#2009-027 as there was a member of the public present regarding this case.

**B. STATUS/FINE ASSESSMENT HEARING**

**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

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Atty Baker commented that the respondent was not present and at the July meeting they were issued a Order Finding Violation. She stated that the property is still in non-compliance and the Town was seeking a \$50 daily fine commencing Aug. 7, 2009 until compliance is met, along with the original \$266.85 administrative costs and the new administrative recovery costs in the amount of \$265.85. She added that there are multiple violations on this property.

Special Magistrate Torcivia accepted the following Town exhibits: a copy of the Final Order with the proof of delivery as #1; and the administrative recovery costs in the amount of \$265.85 as #2; and a photograph dated 9/1/09as #3.

Nancy Hogan, 37 Hibiscus Way, was sworn in and advised that she was a neighbor to the respondent, commented that there have been issues with this property for over a year. She advised they may be having financial difficulties however the community must be kept safe. She stated that the police department has been responsive but something else needs to be done citing that we are currently in storm season and the palm trees could have dangerous projectiles. She added that the property is on the market but the bank does not want to foreclose because then they would be responsible for maintaining the property. She concluded by stating that she would be happy to cooperate with anybody.

Atty Baker thanked Mrs. Hogan for her comments and stated that the Town has been active in the past and is also frustrated, however, the Town cannot go onto the property.

Special Magistrate Torcivia stated that he did find there was proper notice and the violation continues to exist. He stated he would impose a \$50 daily fine commencing Aug. 7, 2009 each day the violation continues to exist. He added that the administrative recovery costs in the amount of \$265.85 must be paid immediately and the property may be liened at this time to include the 1<sup>st</sup> hearing \$266.85 administrative recovery costs.

**A. ADOPTION OF AUGUST 4, 2009**

The minutes were adopted as written.

**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 not present.

Atty. Baker summarized that the property owner was found to be in violation and an Order Granting Continuance was issued to allow the respondent to provide updates regarding the short sale of this property. She submitted a letter from The Rucco Real

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Estate Group which stated that there should be a closing on the property within 30 days. The letter was accepted by the Special Magistrate as Exhibit #1.

Special Magistrate Torcivia stated that he acknowledges the ongoing violation and the update provided by the respondent and hopefully the matter will be resolved prior to the October hearing date.

**CASE NO. CE#2009-032    Joseph Romano, 6011 N Ocean Blvd., Ocean Ridge FL 33435**

**RE:    Lots 7 and 8, Blk 5, Amended Plat of Boynton Sub (6011 North Ocean Blvd.)**

**NATURE OF VIOLATION**

Violate Section/s 424.17 through 424.2.17.1.9 of the Florida Building Code by not providing a pool barrier for their pool

The respondent was not present.

Atty Baker summarized the still existing violation and added that while this is not a repeat violation the fence being removed repeatedly happens. She added that the respondent has the fence and merely needs to re-install it. She stated he was issued an Order Finding Violation with an Aug. 13, 2009 compliance date. She stated that the Town was seeking a \$100 daily fine commencing Aug. 13, 2009 until compliance is met, due to the ease of compliance and also the safety hazard, along with the original \$266.85 administrative costs and the new administrative recovery costs in the amount of \$265.85. She added that there are multiple violations on this property.

Special Magistrate Torcivia accepted the following Town exhibits: the Affidavit of Service posted on the door as #1; a copy of the Final Order with the proof of delivery as #2; 4 photographs taken 9/1/09 as #3; and the administrative recovery costs in the amount of \$265.85 as #4.

Sgt. Eubanks testified that she posted the Order Finding Violation on the front door and the violation continues to exist. She added that there are bushes surrounding the pool but they do not constitute a proper barrier.

Special Magistrate Torcivia stated that he did find there was proper notice and the violation continues to exist. He stated he would impose a \$100 daily fine commencing Aug. 14, 2009 each day the violation continues to exist. He added that the administrative recovery costs in the amount of \$265.85 must be paid immediately and the property may be liened at this time to include the 1<sup>st</sup> hearing \$266.85 administrative recovery costs.

**C.    VIOLATION HEARING/S**

**CASE NO. CE#2009-037    Gerard Maus and Susan Maus, 33 Ixora Way, Ocean Ridge FL 33435**

**RE: Ocean Ridge Beach Lot 9 (33 Ixora Way)**  
**NATURE OF VIOLATION**

Violate Section/s 67-174(a)(1) of the Town's Code of Ordinances by not maintaining the roof on their house

The respondent was not present.

Atty Baker summarized the violation and advised that Sgt. Eubanks would provide testimony. She requested the property be found in violation and brought into compliance by Oct. 2, 2009 failing which would impose a \$50 daily fine. She also requested that the Town be reimbursed for the administrative recovery costs.

Sgt. Eubanks testified that she observed the violation on Aug. 9, 2009 and notice was provided on Aug. 19, 2009. She stated she spoke with the resident who asked for 2-3 weeks to coordinate with the tenant to have the roof pressure cleaned.

Special Magistrate Torcivia accepted the following Town exhibits: the Affidavit and Notice of Violation with the green receipt as #1; the Property Appraiser showing proof of ownership as #2; photograph taken on Sept. 1, 2009 as #3; and the administrative recovery sheet in the amount of \$265.85 as #4.

Special Magistrate Torcivia stated that he did find there was proper notice and an Order Finding Violation would be prepared ordering compliance by Oct. 2, 2009 failing which could constitute up to a \$250 daily fine. He stated he would also order that the \$265.85 administrative recovery costs be reimbursed to the Town and paid by Oct. 2, 2009. A Status/Fine Assessment Hearing is set for Oct. 6, 2009 at 10 AM.

**C. ADJOURNMENT**

The meeting was adjourned at approximately 10:30 AM.

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Town Clerk