

MINUTES  
TOWN OF OCEAN RIDGE  
SPECIAL MAGISTRATE/CODE ENFORCEMENT HEARING  
April 6, 2010

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

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

**A. ADOPTION OF NOVEMBER 3, 2010**

The minutes were adopted as written.

**B. VIOLATION HEARING**

**CASE NO. CE#2010-001 Jeffrey Kahn, 28 Tropical Drive, Ocean Ridge  
FL 33435**

**RE: Palm Beach Shore Acres, Blks A,B, & Z  
East 76' of West 748' of Lot 17 Blk A (28  
Tropical Drive)**

**NATURE OF VIOLATION**

Violate Section/s 64-6(c)(3) of the Town's Code of Ordinances by allowing short-term rentals of less than thirty (30) days at his residential property

The respondent was not present, however, Debbie O'Connell, Hampton Real Estate, provided a faxed letter from Mr. Kahn requesting that she be present on his behalf to speak at the meeting. The letter was presented as Respondent Exhibit #1. Special Magistrate Donlon commented that the letter provides that she can testify but not represent Mr. Kahn.

Atty Baker commented that this violation should be considered a repeat violation because the respondent was cited and found in violation in January 2008. She mentioned that on Dec. 30, 2009 a Mr. Piatt made a complaint with Officer Darville that he paid monies to rent the home at 28 Tropical Drive; however, he was advised the property was not available and the rental company would not return his money. He produced a rental agreement and copy of the check. As a result Sgt. Eubanks issued an Affidavit and Notice of Violation. Since that time the property has been rented 4 additional times, also with some additional complaints. The last renter, Tom Nix, spoke with Sgt. Eubanks in

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person on March 20, 2010 but advised he would only provide an agreement if he was subpoenaed.

Sgt. Eubanks testified that all of the renters, except Mr. Nix, had volunteered to provide copies of their agreements and then she briefly explained her each case.

Special Magistrate Donlon accepted the following Town exhibits: the Affidavit and Notice of Violation, hand delivery receipt, code section, Property Appraiser Sheet, and email with Town Clerk Hancsak rescheduling the meeting to April 6, 2010 as #1; Vacation Rental Agreement between Piatt and Post Travel Services for period of 12/26/09 – 1/2/2010 as #2; Original Order Finding Violation and Order Assessing Fine as #3; Vacation Rental Agreement between Mallalieu and Post Travel Service for period of 1/16/2010 – 1/23/2010 as #4; Contract Agreement between Jeffrey Kahn and Javier Garcete for period of 1/29/2010 – 2/1/2010 as #5; Vacation Rental Agreement between Menda and Post Travel Services for period of 1/29/2010 – 2/27/2010 as #6; Email between Mr. Piatt and Rachel Mallalieu regarding complaints as #7; and the Administrative Cost Recovery Sheet in the amount of \$333.90 as #8.

Atty Baker read a section of the code pertaining to vacation rentals and commented that the code does not require that the renter actually take possession of the home. She added that the facts show that money was received and dates were indicated for 5 separate violations and the owner is still ultimately responsible. She asked the Town Clerk to testify as to a telephone conversation with Ms. O'Connell.

Town Clerk Hancsak testified that Ms. O'Connell had called her last week and asked if she could represent Mr. Kahn. She advised her that a notarized letter or Power of Attorney would be necessary to provide to the Special Magistrate and it would be their decision. She added that Ms. O'Connell commented that the owner was in the process of a short sale and something to the effect that the property was rented to cover some costs.

Ms. O'Connell commented that the property was being rented because of money problems and there was a pending short sale with Aurora Bank. She submitted a faxed Contract Agreement showing that the owner, Mr. Kahn had his own contract which shows a period or 30 days or longer (3/27/2010 – 6/30/2010), which was accepted by Special Magistrate Donlon as Respondent Exhibit #2. She stated that Mr. Kahn had gotten himself into a situation and he was being taken advantage of and as a result the locks to the residence were being changed.

After reviewing the contract submitted by Ms. O'Connell, Atty Baker commented that the lease looks very similar to Town's Exhibit #5 with very minor changes. She stated that the Town understood the economic situation; however, it was still in violation and shows culpability on Mr. Kahn's part because the lease agreements are so similar. She requested that the respondent be found in violation for each of the 5 violations and that a minimum of \$250 per day fine be assessed for each violation, if not all of the days to present, and that the administrative recovery costs be assessed.

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Special Magistrate Donlon stated that she did find there was proper notice and does find that there are repeat violations. She stated that a fine will be imposed beginning Dec. 30, 2009 and will continue to accrue at \$250 per each day the repeat violation continues to exist. She also stated the administrative recovery costs in the amount of \$333.90 must be paid within 10 days. She stated that because this was a repeat violation no Assessment Hearing was necessary and the property could be liened. It is the responsibility of the Respondent to show compliance.

**C. ADJOURNMENT**

The meeting was adjourned at approximately 10:45 AM.

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Town Clerk