

MINUTES
TOWN OF OCEAN RIDGE
SPECIAL MAGISTRATE/CODE ENFORCEMENT HEARING
April 5, 2011

Present: Karen Hancsak; Town Clerk, Keri-Ann Baker and Darren Leiser, Town Attys., Sgt. Eubanks, and Lt. Hutchins.

Meeting called to order at approximately 10:10 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. Atty Baker requested to change the order of the agenda to try to accommodate the Respondent for Case #2011-004.

A. ADOPTION OF MARCH 1, 2011

The minutes were adopted.

**C. VIOLATION HEARING
CASE NO. CE#2011-004**

**Sabal Island Properties LLC, 18 Harbour Drive
North, Ocean Ridge FL 33435**

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

NATURE OF VIOLATION

Violate Section/s 67-174(a)(1)(2) and 34-6(a) of the Town's code of Ordinances by not maintaining the property such as/but not limited to: rusted mailbox, sidewalk and driveway cracks and crumbling, rotting door on north side, boarded up window, pool cage (safety barrier) not fulfilling intended purpose, pool is devoid of water and needs to be repaired, wall on second floor balcony in rear of house needs painting, wooden staircase in rear of house contains mold and rails are rusted, chain link gate off hinges, front door latches need repaired and wall surrounding garage door needs repainted where light fixtures were removed

Atty Leiser summarized the case by stating that all of the items, except the pool, have been brought into compliance. He advised that the Town was seeking an order that a permit for the pool demolition be applied for within 15 days.

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Sgt. Eubanks testified that upon re-inspection of the property all the violations have been brought into compliance except the pool. She stated that the respondent told her that he was advised that the pool needed to be demolished. She submitted photographs taken this date. Special Master Donlon clarified that the respondent complied with Section 34-6(a) within the 21 days and the pool violation falls under Section 67-174(a)(1).

Atty Leiser requested that there be a finding of proper notice and that the property is in violation of Section 67-174(a)(1)(2) as cited in the notice. He also requested that the fees listed on the Administrative Recovery Sheet be reimbursed to the Town. He stated that the Town was seeking that a permit for the demolition be applied for within 15 days and the permit for a new pool or fill be applied for within the following 15 days.

Special Magistrate Donlon accepted the following Town exhibits: Notice of Violation and Affidavit and composites with the hand delivery receipt as #1; Photographs taken by Sgt. Eubanks on 4/5/11 as #2; the Property Appraiser owner sheet as #3; and the administrative recovery calculation worksheet in the amount of \$280.02 as #4.

Finbar O'Carroll, respondent, commented that he agreed that the property had been in neglect and explained that it had been through foreclosure and there were significant issues to bring it back into compliance. He stated that the biggest issue was the pool. He added that he has received several quotes on how to repair/replace the pool and it has been determined that demolition and rebuilding the pool was the best option. He added that the design has been almost completed and he will probably have the same company for both the demo and rebuilding. Special Master Donlon determined that Sabal Island Properties LLC was actually owned by his wife and he was testifying today on her behalf but not as a board member.

After hearing the testimony of Mr. O'Carroll the Town was agreeable to applying for both the demolition and fill/replace permits within 30 days.

Special Magistrate Donlon stated that she did find there was proper notice and that the violation under 67-174(a)(1)(2) concerning the pool does exist. She advised that her order would include that the administrative recovery costs in the amount of \$280.02 be paid within 10 days. She stated that her order would also include that the respondent must apply for all permits (demolition of the old pool and fill or construction of a new pool) within 30 days and must be in complete compliance within 6 months of the date of permit issuance or incur possible fines up to \$250 per day each day the violation continues to exist. A Fine Assessment/Status Hearing would be scheduled for Oct. 4, 2011 at 10 AM.

CASE NO. CE#2011-006 Abraham Wagner, 124 Marlin Drive, Ocean Ridge FL 33435
RE: Lot 124, McCormick Mile Add 1 Subdivision (124 Marlin Drive, Ocean Ridge)
NATURE OF VIOLATION

SPECIAL MAGISTRATE CODE ENFORCEMENT HEARING OF APRIL 5, 2011

Violate Section/s 64-81, 67-175(8), 67-174(a)(1), 67-174(a)(2) and 34-6 of the Town's Code of Ordinances by not maintaining the property such as/but not limited to: seawall cracks along entire length and appears to be pulling away from the property, electrical fixtures missing or dangling from dock, exposed electrical wiring under eave of roof, cracked window pane, rear of house needs painting, patio screen enclosure is torn, and weeds in excess of 12" **(Stipulation Signed for Compliance not Related to the Seawall Prior to April 29, 2011 and Compliance for the Seawall Prior to June 15, 2011)**

The respondent was not present.

Atty Leiser stated that the respondent has executed a Waiver of Hearing and Stipulation to achieve complete compliance. Town Clerk Hancsak mentioned that the Respondent was given until April 29, 2011 for all of the violations except the seawall which has a compliance date of June 15, 2011 (because the neighbor plans on having seawall repairs at the same time). Atty Leiser stated that the property owner was now deceased, however; the Town had documents reflecting that the signer on the stipulation was authorized on the Trust and Will.

Sgt. Eubanks testified that the Notice of Violation and Affidavit was sent via certified mail and was signed for on 3/11/11.

Special Magistrate Donlon accepted the following Town exhibits: the Stipulation and Waiver of Hearing with a copy of the Will as #1; the Notice of Violation and Affidavit with the signed green card receipt as #2; the Property Appraiser Owner Sheet as #3; and photographs taken on 2/16/11 as #4. Town Clerk Hancsak clarified that for similar cases in the future with a stipulation that the only paperwork necessary to submit as exhibits consists of the Stipulation, Waiver of Hearing and proof of the original Notice of Violation and Affidavit and receipt.

Special Magistrate Donlon stated that she did find there was proper notice and that she would approve the stipulation and prepare an order reflecting same.

B. FINE ASSESSMENT/STATUS HEARING

CASE NO. CE#2011-021 Brookshore LTD, 550 W Old Country Road, Suite 108, Hicksville NY 11801

**RE: Lot 5 & Lot 6, Blk 5, Boynton Sub
Subdivision (6011 N Ocean Blvd.)**

NATURE OF VIOLATION

SPECIAL MAGISTRATE CODE ENFORCEMENT HEARING OF APRIL 5, 2011

Violate Section/s 67-51 of the Town's Code of Ordinances by constructing concrete columns on the property without first obtaining a permit

No respondent was present.

Atty Leiser advised that the violation for the construction of the concrete columns continues to exist, however; this case as the Special Master may recall involved a title issue whereby the title for the property contains the wrong legal description for the physical address. He advised that evidently the issue is still ongoing and the last correspondence the Town had received was a short letter dated 2/28/11 advising that they were in the process of preparing the action to quiet title. Atty Baker added that when she spoke with Atty Caliendo prior to his letter submittal he advised that he would provide pleadings but has not. She stated that the Town has gone above and beyond making telephone calls and emails and feel they should be provided with updates and pleadings. The Town was requesting an order requiring updates with attached pleadings within 15 days and a violation hearing set in one month.

Special Magistrate Donlon accepted the following Town exhibits: the letter submitted by Attorney Sam Caliendo on Feb. 28, 2011 as #1; and the Final Order dated Jan. 4, 2011 as #2.

Special Master Donlon stated she did find there was proper notice and she would prepare an Order Granting Continuance until June 7, 2011 at 10 AM, however; she would require that the Respondent provide written updates regarding the status of its attempts to quiet title, including pleadings, etc., by the 15th and 1st of each month until the June hearing. She added that failure to provide these updates may result in the Town proceeding with the violation.

C. ADJOURNMENT

The meeting was adjourned at approximately 10:40 AM.

Town Clerk