

MINUTES
TOWN OF OCEAN RIDGE
SPECIAL MAGISTRATE/CODE ENFORCEMENT HEARING
April 2, 2013

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

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 or Order of Assessment.

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

A. ADOPTION OF JANUARY 8, 2013 MINUTES

The minutes were adopted.

At this point Special Magistrate Donlon amended the agenda to hear Case No. 2013-004, then 2013-003, then 2013-002.

B. VIOLATION HEARING

**CASE NO. CE#2013-004 Athena Lekanides
and Phyllis Lekanides, 22 Tropical Drive, Ocean
Ridge FL 33435**

**RE: Palm Beach Shore Acres Blks A,B, & Z
Wly 52' of Ely 116' of Wly 260.05' of Lot 16, Blk
A (5 Tropical Drive)**

NATURE OF VIOLATION

Violate Sections 64-2(c)(3) of the Town's Code of Ordinances by permitting vacation rentals or units at the property they own at 5 Tropical Drive

The Respondent was present.

Atty Baker showed the respondent the exhibits that would be submitted by the Town. She then summarized the violation and advised that it is now in compliance, however; the Town requests that it be found in violation so in the event it occurs again it could be considered a repeat violation. She stated that the Town was recommending that there be a finding of proper notice, determination that the property was in violation, and that the administrative recovery cost worksheet request in the amount of \$278.63 be granted.

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Special Magistrate Donlon accepted the following Town exhibits: A copy of the Affidavit and Notice of Violation with hand delivery receipt, along with the appropriate code section/s, the Property Appraiser Owner Information Sheet, and the Victim/Witness Affidavit whereby the renter advised that the owner suggested that they say they were friends of the owner as composite #1; the Listing by Vacationrentals.com (also shows it has been rented multiple times) as #2; and the Administrative Recovery Sheet in the amount of \$278.63 as #3.

Officer Massimino testified that he witnessed the violation when he spoke with a renter who advised that they were renting for one week. He asked for and they provided a signed Witness Affidavit to the same at which time he prepared the Notice of Violation and hand delivered it to the respondent.

The Respondent stated that she did not deny that the property was rented for one week. She stated that she receives numerous inquiries to rent but she normally declines, however; in this instance the individuals wanted to stay and possibly rent the unit for a 6 month period in the future so she said alright. She stated she was wrong and she would view this in a positive way because this rental caused more problems than it was worth.

Special Magistrate Donlon stated that she did find there was proper notice and that a violation existed and she appreciated the respondent's honesty. She advised that she would also grant the Town the \$278.63 as stated in the Administrative Recovery Sheet to be paid within 20 days. She added that any future violations pertaining to the same code section could be considered as a repeat violation and immediate fines could be imposed of up to \$250 daily. The respondent was advised that a Final Order would be mailed to her.

**CASE NO. CE#2013-003 Maria Hissom, Christian Hissom, Isabel Hissom,
17 Hudson Ave., Ocean Ridge FL 33435
RE: Lot 11, Blk 6, Boynton Beach Park
Subdivision (17 Hudson Ave.)**

NATURE OF VIOLATION

Violate Section 67-174(a)(1), 67-174(c) and 34-6(a) of the Town's Code of Ordinances and also Sections R401.2, M1201.1, R4101.17.1, R317, and R317.1.2 of the Florida Building Code; and also Sections 3025 604.3, 603.1, 304.8, 304.10, 303.1 and 303.2 of the Property Maintenance Code, Article 110.11 and 306(C)(1) of the National Electrical Code; 300.6(C)(1); and Section 403.3 of the Florida Energy Conservation Code. Structure is open to weather elements and vermin, electrical disconnects are exposed, mechanical condensing unit violations, swimming pool is unprotected and holds stagnant water and contains wild game fecal matter on the entry/egress step, decorative wood

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structure on west side is in a state of partial disrepair/decay, and wooden front entry porch that is on wood sills and a wood plate is a violation.

The respondent was not present.

Atty Baker summarized the violations and appropriate code sections. She advised that an original and an amended notice had been sent to both the property owner and the attorney for the bank, since the property is in foreclosure, and was also given to the realtor, who advised she is related to the owner. She added that the property is supposed to be in the process of a short sale that is to take place in the end of April or beginning of May. She submitted the Town exhibits and stated that it does appear that some work had been taken in regards to the pool area but it is still not at an acceptable level. Atty Baker also advised that there has been some communication between the property owner, realtor and Town Manager via telephone conversations and several emails. She concluded by stating that the Town has already granted a 10 day extension (from March 18 to March 28) and would request that it be found in violation.

Town Clerk Hancsak testified that the realtor, Carolina Vivas, came into Town Hall to discuss the property and possible sale and she was advised that the Town would extend the compliance date from March 18 to March 28. Clerk Hancsak also testified that Don McIntosh, Building Official, submitted the photographs/report to her and signed each page in her presence.

Officer Massimino testified that he and Sgt. Eubanks observed the violations on Feb. 24 and he took photographs and then returned to the property on Feb. 27 with Don McIntosh who also took photographs and prepared his report detailing the appropriate building code violations. On April 4, 2013 he responded back to the property and took photographs which reflected that the pool was less green but still in violation and that some sand and boards were put in place to camouflage the violations. He concluded by stating that gray conduit was placed over some exposed wiring, however; according to the Building Official it was still not up to code.

Sgt. Eubanks testified that she had received a Power of Attorney notice given to her by the brother-in-law, however; the document does not have a date on it.

Town Manager Schenck testified that he had a few emails and a conversation with Ms. Hissom on how to correct the violations. He also stated that the realtor contacted him earlier this morning advising that there is a potential buyer who hopes to close by the end of April or sometime in May and plans to renovate the home so they don't wish to fund improvements that will be changed anyway.

Special Magistrate Donlon accepted the following Town exhibits: the Amended Affidavit and Notice of Violation with an Affidavit of Posting the property, the returned certified letters, the code sections, and a copy of the report prepared by the Building Official as composite #1; the original report with photos prepared by Don McIntosh, Building

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Official as #2; 9 pages of photographs taken by Officer Massimino on Feb. 24, 2013 as #3; 9 pages of photographs taken by Officer Massimino on April 1, 2013 as #4; a composite of emails between the Town Manager and the respondent, a letter from the realtor advising of a potential contract with a closing at the end of April, a document of Special Limited Power of Attorney granting Fernando Viso permission to consummate the sale and conveyance of the property (but it is not dated) as #5; and the Administrative Recovery Sheet in the amount of \$349.71 as #6.

Atty Baker stated that while the Town has heard of the respondent's possible sale of the property there still must be a policy to enforce the codes and not delay due to a possible sale that may or may not go through. She requested that there be a finding of proper notice, that a violation still exists which should be brought into compliance to the Town's satisfaction by May 2nd and that the Town be reimbursed for the recovery costs.

Special Magistrate Donlon questioned if that was ample time to obtain building permits to which she was advised that unless engineering drawings are required a couple day turnaround is routine.

Special Magistrate Donlon stated that she did find there was proper notice and that the violations existed and continue to exist. She stated the Final Order would require compliance by May 2, 2013 failing which the property could be assessed up to a \$250 daily fine. She added that she would also grant the reimbursement of administrative fees in the amount of \$349.71 to be paid by May 2, 2013. A Fine Assessment Hearing is scheduled for May 7, 2013 at 10:00 AM if necessary.

**CASE NO. CE#2013-002 John Valentine, 7259 SW Quiet River Ct., Stuart
FL 34997**

**RE: Lot 87, McCormick Mile Add No 1
Subdivision (87 Island Drive)**

NATURE OF VIOLATION

Violate Section 67-174(a)(1), 67-175(11), and 34-6(a) of the Town's Code of Ordinances by not maintaining the property. There is evidence of fallen soffit and the roof appears unable to bear the dead-load imposed by the roof tiles. There is evidence of the foundation being undermined at the rear of the structure. Exposed Electrical wiring is evident throughout the property. The lawn contains weeds and dead leaves. Weeds are growing out of the cracks in the driveway. There is construction debris at the rear of the house. The roof contains mildew and the pool is not being maintained and contains dank water.

The respondent was not present.

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Atty Baker summarized the violations and requested that it be determined that there was proper notice and that a violation exists. The Town was requesting compliance by May 2, 2013 and also reimbursement of the administrative costs in the amount of \$300.24.

Sgt. Eubanks received a notice from Don McIntosh, Building Official, describing the property as being in deplorable condition including evidence of fallen soffit, the roof appears unable to bear the dead-load imposed by the roof tiles, the foundation was undermined at the rear of the structure and there was exposed electrical wiring throughout the property. She stated that when she inspected the property she found additional violations including weeds, construction debris in the rear, roof mildew, and dank pool water. She took photographs on Feb. 22, 2013 and prepared the Notice of Violation.

Town Clerk Hancsak testified that she recently spoke with Mark Lacho, potential buyer of the property, who advised that he was possibly closing on the property April 11, 2013 and he was advised of the violations and the meeting date. He advised that he might attend this meeting, however; he is not present.

Special Magistrate Donlon accepted the following Town exhibits: the memorandum from Don McIntosh, Building Official, describing the condition of the property as #1; the Property Appraiser Owner Sheet as #2; photographs taken on Feb. 22, 2013 by Sgt. Eubanks as #3; the Affidavit and Notice of Violation along with the returned certified letters and copies of the code sections as composite #4; photographs taken on April 2, 2013 as #5; and the Administrative Recovery Sheet in the amount of \$300.24 as #6.

Special Magistrate Donlon stated that she did find there was proper notice and that the violations existed and continue to exist. She stated the Final Order would require compliance by May 2, 2013 failing which the property could be assessed up to a \$250 daily fine. She added that she would also grant the reimbursement of administrative fees in the amount of \$300.24 to be paid by May 2, 2013. A Fine Assessment Hearing is scheduled for May 7, 2013 at 10:00 AM if necessary.

C. ADJOURNMENT

The meeting was adjourned at approximately 11:05 AM.

Town Clerk