

MINUTES
TOWN OF OCEAN RIDGE
SPECIAL MAGISTRATE/CODE ENFORCEMENT HEARING
September 2, 2014

Present: Karen Hancsak; Town Clerk, Kathryn Rossmell, Town Atty., Officer Savino, Officer Massimino, and Lt. Hutchins.

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

Special Magistrate Barbara Alterman 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 and Respondent would present their case and she would render a decision and issue a Final Order or Order of Assessment.

Special Magistrate Alterman approved rearranging the agenda to proceed from the last case to the first.

A. ADOPTION OF AUGUST 5, 2014 MINUTES

The minutes were adopted.

**C. VIOLATION HEARING
CASE NO. CE#2014-012**

Mark Nuccilli, 4915 Pine Tree Drive, Boynton Beach FL 33436

RE: Lot 25 Tropical Shores Subdivision (vacant lot south of 115 Dolphin Drive)

NATURE OF VIOLATION

Violate Section(s) 66-151 5(B)(7) of the Town's Code of Ordinances by not properly maintaining the property

The Respondent was present.

Atty Rossmell summarized the violation and stated that the property still contains trees touching the utility lines and is overgrown. She requested that it be found in violation, given a time certain to correct the violation, and that the town be reimbursed for the administrative fees in the amount of \$288.81.

Officer Massimino testified that he originally observed the violation on 5/20/14 while conducting code inspections. He stated that he observed that the trees were touching the FPL and Cable/Telephone wires and the lot was overgrown. He spoke with the property owner on June 22nd who advised that he would send out his landscaper, which never occurred. On July 25th he left a voicemail from his cellphone stating there was no action on the violations. He spoke with Mr. Nuccilli on July 30th who told him that he thought

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the message was a prank call so he then immediately proceeded to the police station and attempted to call him from the recorded line to which Mr. Nuccilli did not answer. On Sept. 1st he took photographs. Officer Massimino stated that had the property been maintained all along there would not be a violation today.

Special Magistrate Alterman accepted the following Town exhibits: The Affidavit/Notice of Violation, Property Appraiser Sheet, certified mail and unclaimed letter, and code sections as #1, the photographs taken on Sept. 1 and the Police Reports as #2, and the Administrative Recovery Sheet in the amount of \$288.81 as #3.

Atty Rossmell requested a compliance date of Sept. 17, 2014 or begin a \$50 daily fine until compliance.

Mr. Nuccilli stated that the interaction with Officer Massimino began in June, however since there was no caller ID showing on his phone he was skeptical that the caller was indeed a police officer. A month later he received another call and went to look at the lot and noticed that it had some overgrowth. He showed a document similar to a survey depicting the lot dimensions and easements. He disputed that the trees along the eastern property line were his responsibility and added the vegetation along the south property line was probably his responsibility. He advised that he called FPL on 3 occasions and was told that his property was placed on a list with the Tree Vegetation Dept. and could take approximately 3 weeks to assess. He stated that the first time he called was the last part of July and the last time he called was on Aug. 25th. Concerning the overgrown grass, he advised that he contracts with a landscape company who mows every 3-4weeks. He added that they will not touch trees in the power lines. He concluded by stating that he did not live in the Town and the violations were vague in the notice, adding that the code does not provide a clearing radius from the power lines in the code. Special Magistrate Alterman advised that FPL has standards and maintaining the property is still his responsibility and he was first notified in June. She clarified through the Town Clerk that FPL provides a list of certified tree trimming contractors. Special Magistrate Alterman accepted the document similar to a survey as Respondent Exhibit #1.

Special Magistrate Alterman stated that she did find there was proper notice and that the violations existed and all around maintenance is needed. She stated the Final Order would require full compliance by Oct. 2, 2014 to include a meeting with Officer Massimino on site. She added that he should obtain information from FPL on those certified to trim trees. Failure to comply by Oct. 2nd will begin a \$50.00 daily fine until compliance. She added that the administrative costs in the amount of \$288.81 must be paid before Oct. 2, 2014. It is the responsibility of the Respondent to notify the Town when the work is completed for inspection. A Fine Assessment Hearing is scheduled for Oct. 7, 2014 at 10:00 AM if necessary.

**CASE NO. CE#2014-011 Michael Dubose, 9 Ocean Ave., Ocean Ridge FL
33435**

**RE: Lot 3, Block 4, Boynton Beach Park
Subdivision (9 Ocean Ave.)**

NATURE OF VIOLATION

Violate Section(s) 67-174(A)(1), 67-51, 67-52 of the Town's Code of Ordinances, Section R301.1 from the Florida Building Code – Residential, 2010 Edition and Section 105/1 from the Florida Building Code – Residential, 2010 Edition. The property has rotted roof structures, decomposing roof and framing, several exposed wires. There are two incomplete and expired permits on file. A structure on the east side of the property was built without a permit

The Respondent was present.

Atty Rossmell summarized the violations by stating that there were several maintenance issues, rotting roofs, expired permits, and a structure that was totally built without a permit. She stated that there were a total of 3 structures on the lot which each had violations. She did advise that the pool maintenance has been brought into compliance. She requested that there be a finding of proper notice, that some of the violations continue to exist, that the property be brought into full compliance by Oct. 2nd, and the Town be entitled to the administrative recovery costs.

Officer Savino advised that she observed the violations on 7/18/14 and took photos. She also went to the property and took additional photos on Sept. 2nd and observed that some of the violations continue to exist.

Don McIntosh, Building Official for the Town, stated that on 7/18/14 he investigated a complaint of a structure being erected without permits. He and Officer Savino then discovered that there were decaying rotted structural members, expired permits, electrical violations, the unpermitted structure, etc. He subsequently met with the property owner and advised him what he would need to do to revise the expired permits, bring the property into compliance, and the requirement for the unpermitted structure to be demolished after a demolition permit was obtained. He stated that the owner has pulled an electrical permit to correct the electrical violations and several of the other violations have been corrected.

Special Magistrate accepted the following Town Exhibits: the Affidavit and Notice of Violation, hand written receipt, code sections, and Property Appraiser Owner Sheet as #1; photographs taken on 7/18 and 9/2/14 and the police reports as #2; the report by the Building Official and copies of the expired permits and current electrical permits as #3; and the administrative recovery cost sheet in the amount of \$410.10 as #4.

Mr. Dubose advised that due to personal reasons he did not have access to the property for the last 3 years, although he is the owner. He mentioned that all of the violations have been rectified with the exception of the renewal of the permits for the roof and addition, and also the demolition of the structure. He did renew one of the permits but it was

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rescinded because Mr. McIntosh advised that more recent documents needed to be submitted. Mr. McIntosh advised that there have been no inspections since 2012 and some of the documents may now be outdated.

Special Magistrate Alterman accepted photographs showing some of the corrected violations as Respondent Exhibit #1.

Atty Rossmell commented that the Town understood that renewing the expired permits may take a little longer since new documentation must be submitted so she requested that permits be obtained within 30 days and 60 days for completion. She added that the demolition permit should be applied for within 24 hours.

Special Magistrate Alterman stated that she did find there was proper notice and the some of the violations continue to exist. She stated that the Final Order would state that all permits (demolition and renewal of expired permits) must be obtained prior to October 2, 2014 with the work totally completed by Oct. 31, 2014, failing which would begin a \$50 daily fine. A Fine Assessment/Status Hearing is scheduled for Nov. 4, 2014 at 10 AM if necessary to provide proof of substantial progress and a final date for full compliance. She stated that the Respondent must pay the administrative recovery costs in the amount of \$410.10 on or before Oct. 2, 2014.

B. STATUS HEARING

CASE NO. CE#2014-010

**JP Morgan and Chase Bank National Assn and Shapiro and Fishman LLP C/O, 2424 N Federal Hwy, Suite 360, Boca Raton FL 33431-7780
RE: Lot 23&24, Inlet Cay (24 Eleuthera Drive)**

NATURE OF VIOLATION

Violate Sections 67-174(a)(1), 64-81. and 34-6 of the Town's Code of Ordinances by not maintaining the property to wit: the pool contains green water, visible signs of erosion under the pool deck, grass and weeds in excess of 12 inches, exposed electrical conductor in the rear of property, the sea wall supports are not being maintained and there are visible signs of deterioration, and there are erosion pockets at the seawall which are draining into the intracoastal.

The attorney for the new owner, Ryan Willits, was present.

Atty Rossmell summarized the prior meeting and the Final Order which required compliance by Aug 28th for the pool violations. She stated that the pool covering was done, however; it is in violation again.

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Officer Savino testified that the grass has been cut, no fill has been placed under the pool deck and the pool covering has collapsed.

Special Magistrate Alterman accepted the following Town exhibits: the Final Order and certified receipt/green card and email to Mr. Willits as #1; the police report and photographs taken on Aug 29, 2014 as #2; and the administrative recovery cost sheet in the amount of \$306.98 as #3.

Atty Willits advised that the new property owner went to the site on Aug. 25th and observed that the bank had not done anything to correct the violations so they reinforced the existing pool covering. However; on Aug 28th there was a bad storm which caused the covering to collapse.

Atty Rossmell advised that the Town would be willing to provide an additional 10 days to correct the pool violations along with collection of the reimbursement of the administrative costs.

Atty Willits was agreeable to the Town's request. He added that they are currently obtaining bids for the seawall repairs which will cost between \$265,000 and \$365,000.

Special Magistrate Alterman stated that she did find that there was proper notice to the new owner and that the pool violations continue to exist. She stated she would prepare an Order Continuing Fine Assessment Hearing to allow until Sept. 15, 2014 for compliance failing which a \$50 daily fine would be imposed. She stated that the administrative costs in the amount of \$306.98 must be paid on or before Oct. 2nd. A Fine Assessment Hearing is scheduled for Oct. 7, 2014 at 10 AM if necessary.

D. ADJOURNMENT

The meeting was adjourned at approximately 11:35 AM.

Town Clerk