

MINUTES
TOWN OF OCEAN RIDGE
SPECIAL MAGISTRATE/CODE ENFORCEMENT HEARING
October 7, 2014

Present: Karen Hancsak; Town Clerk, Kathryn Rossmell, Town Atty., 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.

Everyone planning on providing testimony were sworn in.

A. ADOPTION OF SEPTEMBER 2, 2014 MINUTES

The minutes were adopted.

C. FINE ASSESSMENT/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 (Deborah Grazioso), Ryan Willits, was present.

Atty Rossmell summarized the Final Order and the prior meeting that resulted in an Order Continuing Fine Assessment Hearing. She clarified that all prior violations with the exception of the seawall were now in compliance. She advised that the Town met with the Respondent's attorney prior to the meeting and an agreement was made. She stated that the new owner has obtained a marine contractor to perform the work and a

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Florida Dept of Environmental Protection permit has been applied for which could take approximately 6-8 weeks. Both parties agreed that if the respondent has not obtained the DEP permit, the Town building permit, and started construction by Nov. 26, 2014 then a Fine Assessment/Status Hearing will be held on Dec. 2, 2014. An extension may be considered at that point. There was also agreement that the Respondent will pay the \$192.61 administrative recovery costs (in addition to the \$102.02 credit that exists from the prior hearing) by October 31, 2014.

Atty Willits confirmed that he was agreement with the proposed new Order Continuing Fine Assessment Hearing.

Special Magistrate Alterman advised that she would forward an Order Continuing Fine Assessment Hearing.

**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 that were included in the Order Finding Violation. She commented that the Respondent had been given until Oct. 2, 2014 to apply for the new permits that expired in 2012 and also the demolition permit for the unpermitted structure, which has not been done. She added that the Respondent was also given the date of Oct. 31, 2014 for full compliance. She stated that the Respondent did contact Town Hall to inquire about still renewing the two permits but was advised that the Building Official was not willing to do so. She later stated she misspoke and that the Building Official had not yet spoken to the Respondent. She stated that the Town was requesting the administrative costs of \$390.64 and the last hearing costs of \$410.10 be paid within 5 days and that the property be found in violation with a \$50 daily fine until compliance is met for obtaining the required permits.

Town Clerk Hancsak testified that no permits had been applied for as of this date.

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Special Magistrate Alterman accepted the following Town exhibits: the Order Finding Violation along with the certified receipt as #1; the administrative recovery sheets for Sept. 2, 2014 (\$410.10) and Oct. 7, 2014 (\$390.64) as #2; and Section #105.4.1.1 and 105.4.1.2 from the Florida Building Code as #3.

Mr. Dubose stated that he felt that the 30 days for permitting and 30 days for compliance that were imposed at the last hearing were unrealistic, citing that it took 3 weeks for him to meet with his architect, Kelly Yates, on Sept. 26th. He advised that he had a letter from the architect dated Oct. 3, 2014 citing that the structure meets today's codes and stated the permit should never have been rescinded. He advised that he contacted Town Hall on Sept. 26th in regards to adding a kitchen remodel to the storage room addition permit to which he was advised that it would need a separate permit. He also came into Town Hall on Oct. 3rd to inquire about demolishing both the main structure and the unpermitted structure and possibly building a new structure. The Town Clerk advised that he would need to speak with the Building Official because the existing guest house is an accessory structure. He stated he still has not heard back from the Building Official in regards to the demolitions or the expired permits. He concluded by stating that he felt the Town was not responding in a timely fashion and was not helping its citizens.

Special Magistrate Alterman commented that the direction was already given last month on requiring new permits. She also clarified that he was arguing whether the original permits were still valid and she stated only the Building Official could address that, however; she stated the demolition permit for the unpermitted structure was still also an issue. He stated that his bone of contention was, not that he was opposed to getting rid of the structure, but the way it is being handled by the Town. Mr. Dubose provided two photographs of another shed located 4 homes away that contained lighting and windows. He stated that he asked if there was any way to keep the structure and he was advised absolutely not and he questioned if there was a way to make it compliant why couldn't he.

Special Magistrate Alterman accepted the following Respondent exhibit: 3 photographs (2 of a structure located 4 homes away and 1 of his structure).

Don McIntosh, Building Official, stated that the violations were about the permits being expired or not permitted. He then read Section 105.4.1.1 of the Florida Building Code which states – If work has commenced and the permit is revoked, becomes null and void, or expires because of lack of progress or abandonment, a new permit covering the proposed construction shall be obtained before proceeding with the work. He stated that the permit for the storage area addition was too old to be renewed and has been expired since 2012 and it was renewed in error on Aug. 24th. He stated that he rescinded the permit and met with Mr. Dubose and advised him that new permits would be needed and the unpermitted structure needed to be removed. He added that during a meeting with him that Mr. Dubose had indicated the area was actually a living/storage area. He stated that this also applied to the roof permit because it has lay stagnant well beyond the 180 days and it is voided due to lack of progress. He stated the unpermitted structure was

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different than a shed because it is considered a habitable structure attached to a pad, with air conditioning, plumbing and also electrical.

Special Magistrate Alterman questioned what additional requirements would be needed if it were possible to obtain a permit. Town Clerk Hancsak advised that existing and proposed the zoning requirements such as lot coverage, floor area ratio, and setbacks would need to be provided by the architect, health department approval, and possibly impact fees would be due. Again, Mr. McIntosh stated that in his opinion the structure had to be removed to bring it into compliance.

Special Magistrate Alterman advised Mr. Dubose that he needed 2 new permits containing the product approvals and either new drawings or drawings re-stamped to ensure that they are still the same. She added that the demolition permitting for the unpermitted structure or for the unpermitted structure/main house was his choice whichever process he chose but the fines are accruing until compliance. She also stated that he did not present anyone to refute the Building Official's testimony.

Mr. Dubose again questioned whether the unpermitted structure could remain if the architect signed off on the structure. Don McIntosh again stated that per the State of Florida the structure needs removed as expeditiously as possible and added it was not a choice because a permit is needed to commence the work. He also cited Section 105.4.1.2 of the Florida Building Code that states – If a new permit is not obtained within 180 days from the date the initial permit became null and void, the building official is authorized to require that any work which has been commenced or completed be removed from the building site. He stated that the Town was not asking for the roof or addition structure (both expired permits) be removed. The Town was asking him to come in and reapply with the current Florida product approvals and either new plans or the plans restamped by the architect. He also stated that he could only consider a demolition permit application based on what is submitted by the applicant and if he wants to include the main structure or apply for a demolition as a separate permit then it would be considered based on his application request. He added that he would issue a demolition permit for the unpermitted structure today if Mr. Dubose applied.

Special Magistrate Alterman stated that she did find there was proper notice and her order would include that the violations continue to exist as no permits have been applied for or issued by Oct. 2nd. She stated that a \$50.00 daily fine will continue until the permits are issued. She would also include that the administrative recovery costs for both hearings (\$410.10 and \$390.64) be paid within 5 days. She stated that the Oct. 31st full compliance date for all violations was still in effect and a Fine Assessment/Status Hearing would be held on Nov. 4, 2014 at 10 am if necessary.

Mr. Dubose stated that if he was making progress with the architect he would like more time to which he was advised that the Town could possibly consider more time if necessary at the Fine Assessment/Status Hearing. Mr. Dubose commented that he did not feel he should be fined when he came into Town Hall on Oct. 3rd to apply for a demolition permit. Town Clerk Hancsak advised that when he came in on Friday he

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questioned about pulling a demolition permit for both the main house and unpermitted structure to which he advised that the demolition permit for the main house would require several items on a demolition permit checklist. Special Magistrate Alterman advised the fine was still accruing because he had failed to apply for other permits and all three violations were included in the Final Order.

Town Clerk Hancsak clarified for the record that a daily fine of \$50 per day would accrue for the three permit issues until the permits were obtained, the administrative recovery costs for both hearings needed to be paid within 5 days and could be included in this lien, and that full compliance was still required by Oct. 31, 2014 and a Fine Assessment/Status Hearing would be scheduled for Nov. 4th for the Oct. 31st portion only.

ON OCT. 9TH IT WAS DISCOVERED THAT THE FINAL ORDER ISSUED ON SEPT. 2, 2014 PROVIDED FOR A FINE ASSESSMENT/STATUS HEARING ON NOV. 4, 2014. THEREFORE, THE ADMINISTRATIVE RECOVERY COST RESPONSIBILITY WILL NOT BE PLACED ON THE RESPONDENT FOR THE OCT. 7, 2014 HEARING AND THE FINE ASSESSMENT WILL BE DETERMINED AT THE NOV. 4, 2014 FINE ASSESSMENT/STATUS HEARING. THIS DOES NOT NEGATE THE SEPT. 2, 2014 FINAL ORDER ISSUED OR THE ADMINISTRATIVE RECOVERY COSTS DUE FOR THAT MEETING. THE RESPONDENT, MR. DUBOSE WAS PROVIDED A LETTER ON OCT. 26, 2014, VIA HAND DELIVERY, ADVISING HIM OF THIS.

D. ADJOURNMENT

The meeting was adjourned at approximately 11:00 AM.

Town Clerk