

MINUTES
TOWN OF OCEAN RIDGE
SPECIAL MAGISTRATE/CODE ENFORCEMENT HEARING
January 6, 2015

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

Meeting called to order at approximately 10:00 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 DECEMBER 2, 2014 MINUTES

The minutes were adopted.

Atty Rossmell advised that Case No. CE#2014-028 has been withdrawn as the Building Official inspected the site and approved the work that has been done.

B. VIOLATION HEARING

**CASE NO. CE#2014-022 March Lacho, 87 Island Drive So, Ocean Ridge
FL 33435**

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

NATURE OF VIOLATION

Violate Sections 67-174, 67-175 of the Town's Code of Ordinances by not maintaining the property. The exterior of all structures on premises are not maintained causing a blighting influence on neighborhood properties. The exterior walls are not anchored. Pool contains green water

The Respondent was present.

Atty Rossmell summarized the violation by stating that exterior of the structures on the premises are not maintained causing a blighting influence on neighborhood properties. The exterior walls are not anchored and the pool contains green water. She requested that there be a finding of proper notice, and that the property was and continues to be in violation and require a complete building permit submittal by 1/29/15, full compliance for the pool violation by 1/29/15 or a \$50 daily fine, and reimbursement of the

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administrative recovery costs in the amount of \$326.13. She stated that satisfactory updates could be determined at future Status Hearings until the renovation is brought into compliance.

Officer Savino testified that observed, prepared a Notice of Violation, and took photos on 11/14/14. She added that on 12/20/14 she observed that the pool was not green anymore and has been emptied, however; there was no fencing or proper barrier and therefore it is still in violation. She reinspected the property on 1/4/15 and observed that the property was still in violation.

Atty Rossmell also submitted 5/7/13 that reflect statements from Mr. Lacho advising that the improvements should be complete within one year and the 6/4/13 minutes adopting the 5/7/13 minutes.

Special Magistrate Alterman accepted the following Town exhibits: The Affidavit and Notice of Violation, code section, Property Appraiser Ownership Sheet, and certified mail receipt as composite #1; photographs taken on 11/14/14 and the associated police reports as #2; and the administrative recovery cost sheet in the amount of \$326.13 as #3; and copies of the 5/7/13 minutes, 6/4/13 minutes, and copies of the building permits for the demolition and the seawall as #4.

Mr. Lacho, 28 Ixora Way, and owner of 87 Island Dr So., stated that he purchased the property in 4/13 which was already in disarray and he brought the then violations into compliance by demolishing most of the structure. He stated that he was advised by the Building Official that the house renovations could not be completed until the seawall repairs were made due to the integrity of the lot. In July 2014 the seawall was completed and he has since had plans drawn up, however; there was an issue with the square footage and the architect has not returned his phone calls so he has hired a different architect to change the plans. He is unsure whether he can meet the 1/29/15 compliance date. He requested 60 days. Mr. Lacho commented that in order to obtain quotes the plans needed to be completed. He stated that he had the pool had been cleaned and he can determine what type of barrier would bring it into compliance.

Town Clerk Hancsak testified that the permit may not ready because it still needs review by the Health Dept. and the County prior to submittal to the Town. Atty Rossmell reiterated the Town's request for a Status Hearing to see the progression being made.

Special Magistrate Alterman commented that she agreed that progress on the plans must be demonstrated, however; the pool barrier needs immediate compliance through approval by the Building Official.

Special Magistrate Alterman advised that she did find there was proper notice and that the violation existed and continues to exist. She stated she would prepare a Final Order requiring full compliance for the pool by Jan. 29, 2015 and obtaining a Building Permit for the renovations by Jan. 29, 2015 or the Town approving substantial progress. A \$50.00 daily will commence if not brought into compliance. She also would include that

the Town be reimbursed the \$326.13 administrative recovery costs by Jan. 29, 2015. A Fine Assessment/Status Hearing is scheduled for Feb. 3, 2015 and future Status Hearings will be scheduled.

**CASE NO. CE#2014-023 Polar Palm Properties, LP, 11 Douglas Drive,
Ocean Ridge FL 33435
RE: Palm Beach Shore Acres, Blk A, B & Z of
Lots 18-20, Blk A lying between Oceanview
Drive and Douglas Dr (1-16 Douglas Drive)
NATURE OF VIOLATION**

Violate Section/s 67-177(a)(1) of the Town's Code of Ordinances by failing to maintain a safe and sanitary septic system for the tenant residents at this location. The Owner(s) have knowledge of the required repairs and have failed to make the necessary repairs since Sept. 9, 2014. As a result of failing to maintain, the septic system; which is buried in front of Unit 11, is seeping sewage through the ground and surfacing on the sidewalk and grassy common. The seepage is causing a green discoloration to be present on the ground's surface and is also causing a very strong odor of raw sewage

The Respondent was present.

Atty Rossmell summarized the violation as cited. She requested that there be a finding of proper notice, and that the property was and continues to be in violation and require full compliance by 1/29/15 or a \$50 daily fine, and reimbursement of the administrative recovery costs in the amount of \$286.49. She added that there should be continual pumping of the system until full compliance.

Officer Jones testified that the first complaint he had received the septic at this property was on 10/13/14, however; when he arrived he did not observe sewage or detect an odor. He stated that Officer Savino had responded to this address on 9/9/14 and also spoke with Ms. Lyons on 9/11/14. On 11/26/14 he responded to a complaint received at Town Hall regarding raw sewage and odor. He stated that he did detect an odor and observed a green film by the one septic system located between Units 11 and 12. He stated that he did not take photographs because it was raining. He stated that he contacted Ms. Lyons and she acted as if she had never been notified of this ongoing problem. He stated that he knew this violation needed immediate action so he prepared the Affidavit and Notice of Violation. He stated that a Health Dept. Permit has been applied for and he has received a copy of the receipt (dated 12/22/14) but it has not yet been issued. Officer Jones concluded by stating that on 1/5/15 he observed that the property had no work in progress

or completed and he did detect any odors or sewage, but he has not been there on a daily basis.

Officer Savino testified that she did respond to the site on 9/9/13, as did the maintenance personnel, and they observed the sewage overflow and detected an odor. She advised that she made contact with Ms. Lyons who advised her that she was aware of the problem. Officer Savino stated that she conducted a status check on 9/11/14 and was advised that the system was pumped on Tuesday, adding that she was aware of the problem.

Special Magistrate Alterman accepted the following Town exhibits: The Affidavit and Notice of Violation, code section, Property Appraiser Ownership Sheet, and certified mail receipt as composite #1; the associated police reports as #2; a copy of the Health Dept. application receipt and their nuisance complaint as #3; and the administrative recovery cost sheet in the amount of \$286.49 as #4.

Stacy Borger, President of Polar Bear Properties, stated that he was surprised that this meeting was taking place because he felt as long as they were moving forward he did not feel it as necessary. Mr. Borger requested to question Officer Jones or Savino in regards to who filed the complaint, citing that it could be an unhappy tenant, and whether the officers were experts on determining septic and drainfield issues. Special Magistrate commented that while he could ask these questions he has already acknowledged that there is a problem and has applied for a new system with the Health Dept. Atty Rossmell commented that the officers were not claiming to be experts, they were testifying to what they saw.

Special Magistrate Alterman questioned whether he felt the work could be completed by 1/29/15. Mr. Borger reiterated there was no issue because they were handling the problem with a solution including a whole new system. He stated that he did not agree with the fines and felt this was a conspiracy theory and felt he did not need orders from the Town. Special Magistrate Alterman advised Mr. Borger that based on testimony and evidence she will issue an order today and that he has the right to appeal to the circuit court.

Special Magistrate Alterman advised that she did find there was proper notice and based on the testimony by both Officers Jones and Savino there was a violation, although not on a daily basis. She stated she would prepare a Final Order requiring full compliance by Jan. 29, 2015 or consideration may be given at the February 3, 2015 Status Hearing depending on the status of the Health Dept. permit and the hiring of a contractor. Based on the outcome of the Status Hearing a \$50.00 daily fine can be assessed She also would include that the Town be reimbursed the \$286.49 administrative recovery costs by Jan. 29, 2015.

**CASE NO. CE#2014-024 Oceandell Holdings, LLC, owning property at
6273 N Ocean Blvd., Ocean Ridge FL 33435
RE: Boynton Beach Park North 120' of South
170' of Unmbrd block lying east of Ocean Blvd.
(6273 N Ocean Blvd.)**

NATURE OF VIOLATION

Violate Section/s 67-174(a) of the Town's Code of Ordinances by failing to clean the exterior white tiled roof, exterior security walls, balconies, entrance gates, and the in-ground pool

The Respondent's representative was present.

Atty Rossmell summarized the violation/s and advised that the property has achieved partial compliance. She requested that there be a finding of proper notice, and that the property was and continues to be in partial violation and require full compliance by 1/29/15 or a \$50 daily fine, and reimbursement of the administrative recovery costs in the amount of \$286.49.

Officer Kurz testified that he observed the violation/s on 12/2/14 and took photographs. On 1/5/15 he observed that there has been partial compliance, however; the roof was still black and the pool still contains green stagnant water. He stated that the security walls have been pressure washed but they remained stained.

Special Magistrate Alterman accepted the following Town exhibits: The Affidavit and Notice of Violation, code section, Property Appraiser Ownership Sheet, and certified mail receipt and returned envelope as composite #1; photographs taken on 12/2/14 and also 1/5/15 as #2; and the administrative recovery cost sheet in the amount of \$286.49 as #3.

Ken Smith, the general contractor for the new proposed home and owners agent, stated that the owner is basically never at the residence and has not seen the property deterioration. He stated that they have contracted with Quality Landscape to clear and maintain the property on a regular basis. He added that they have pressured cleaned the mildewed areas but there is staining and the paint is peeling. He advised that they will have it done again. He stated that the power was turned off and once the electric is turned on they will have the pool pump operating. He stated that he felt they could come into compliance by 1/29/15 and the fines were understandable.

Special Magistrate Alterman advised that she did find there was proper notice and there is partial compliance. She stated she would prepare a Final Order requiring full compliance by Jan. 29, 2015 failing which a \$50.00 daily would begin. She also would include that the Town be reimbursed the \$286.49 administrative recovery costs by Jan. 29, 2015. A Status Hearing would be scheduled for Feb. 3, 2015 if necessary.

CASE NO. CE#2014-025 **Oceandell Holdings, LLC, owning property at 6273 N Ocean Blvd., Ocean Ridge FL 33435**
RE: Boynton Beach Park North 120' of South 170' of Unbrd block lying east of Ocean Blvd. (6273 N Ocean Blvd.)

NATURE OF VIOLATION

Violate Section/s 34-6 of the Town's Code of Ordinances by failing to cut the overgrown lot/grass, weed the area, clear underbrush, and secure loose trash

The Respondent's representative was present.

Atty Rossmell summarized the violation/s and advised that the property has achieved partial compliance. She requested that there be a finding of proper notice, and that the property was and continues to be in partial violation and require full compliance by 1/29/15 or a \$50 daily fine, and reimbursement of the administrative recovery costs in the amount of \$286.49.

Officer Kurz testified that he observed the violation/s on 12/2/14 and took photographs. On 1/5/15 he observed that there was compliance with the exception of the loose trash, however; as this meeting was taking place the loose trash was being removed.

Special Magistrate Alterman accepted the following Town exhibits: The Affidavit and Notice of Violation, code section, Property Appraiser Ownership Sheet, and certified mail receipt and returned envelope as composite #1; photographs taken on 12/2/14 and also 1/5/15 as #2; and the administrative recovery cost sheet in the amount of \$286.49 as #3.

Ken Smith, the general contractor for the new proposed home and owners agent, testified that by 10 AM the trash was removed bringing this violation into compliance.

Atty Rossmell requested that the administrative recovery costs still be awarded.

Special Magistrate Alterman advised that this case would be dismissed based on the testimony, however; she would grant the administrative recovery costs in amount of \$286.62 because the violation was not corrected until today. She stated she would add this amount to CE#2014-024.

CASE NO. CE#2014-027 **Bill Morris, owning the property at 2 Coconut Lane, Ocean Ridge FL 33435**
RE: Lot 3, Block 2, Boynton Beach Park Subdivision (2 Coconut Lane)

NATURE OF VIOLATION

Violate Section/s 34-6(a) of the Town's Code of Ordinances by failing to clear the rubbish and

related trash therefore allowing the nesting of mice, rats or other rodents and failing to maintain a neat and orderly appearance of the property

The Respondent was not present.

Atty Rossmell summarized the violation/s and advised that the property is still in violation. She requested that there be a finding of proper notice, and that the property was and continues to be in violation and require full compliance by 1/29/15 or a \$50 daily fine, and reimbursement of the administrative recovery costs in the amount of \$287.62.

Officer Kurz testified that he observed the violation/s on 12/5/14 and took photographs. On 1/5/15 he observed that the violation still exists and took additional photographs.

Special Magistrate Alterman accepted the following Town exhibits: The Affidavit and Notice of Violation, code section, Property Appraiser Ownership Sheet, and certified mail receipt as composite #1; photographs taken on 12/5/14 and 1/5/15 as #2; and the administrative recovery cost sheet in the amount of \$287.62 as #3.

Special Magistrate Alterman advised that she did find there was proper notice and that the violation existed and continues to exist. She stated she would prepare a Final Order requiring full compliance by Jan. 29, 2015 failing which a \$50.00 daily fine would begin. She also would include that the Town be reimbursed the \$287.62 administrative recovery costs by Jan. 29, 2015. A Fine Assessment/Status Hearing is scheduled for Feb. 3, 2015 if necessary.

D. ADJOURNMENT

The meeting was adjourned at approximately 11:35 AM.

Town Clerk