

MINUTES
TOWN OF OCEAN RIDGE
SPECIAL MAGISTRATE/CODE ENFORCEMENT HEARING
APRIL 5, 2016

Present: Town Attorney Glen Torcivia, Town Clerk Tracey Stevens, Sergeant Kurz, Officer Pilon, Officer Van Camp, and Zoning Official Manny Palacios.

Meeting called to order at 10:00 A.M.

Special Magistrate Jennifer Ashton explained the hearing process, noting that the Town will call the cases as they appear on the agenda. Once the case is called, the Town will present evidence first, and then the respondent will have the opportunity to see the evidence and ask any questions, and then the respondent will provide testimony and evidence. Once all of the evidence and testimony has been concluded, the Special Magistrate will make a ruling, and the town and respondent will receive the written order in the mail within the next few days. This is not meant to be a formal court room and formal rules of evidence do not apply.

All those persons planning on providing testimony were sworn in by Special Magistrate Ashton.

A. ADOPTION OF MARCH 1, 2016 MINUTES

The minutes of March 1, 2016 were adopted by Special Magistrate Ashton.

B. FINE ASSESSMENT/STATUS HEARING

**CASE NO. CE#2016-003 Bonita Realty Corp, S&B Tropics Inc., 2258 SW Vero Beach Ln, West Palm Beach, FL 33411-5756
RE: McCormick Mile LT 71 & S 40 FT of LT 72 (6600 North Ocean Boulevard)**

NATURE OF VIOLATION

Violate Section(s) 67-174 – Maintenance and Appearance, 67-175 – Unsafe Structures, and 67-179 – Minimum Standards for Commercial Structure, of the Town’s Code of Ordinances by maintaining unsafe condition of the stairs from the second floor of the building in a commercial structure.

Town Attorney Torcivia summarized the case and presented Town exhibits to Special Magistrate Ashton.

Special Magistrate Ashton accepted the following Town exhibits into evidence without objection: Town Recovery Calculation Worksheet for today’s hearing as #1.

SPECIAL MAGISTRATE CODE ENFORCEMENT HEARING OF MARCH 1, 2016

Special Magistrate Ashton asked if any progress has been made on this case, and Officer Van Camp testified that construction is currently taking place. He submitted photos that were taken on April 5, 2016 as Town Exhibit #2, which were accepted by Special Magistrate Ashton into evidence without objection. Officer Van Camp stated that some improvements have been made, but the contractor (Daniello & Associates) told him that the work should take another three to four weeks to complete.

The Respondent, Sarah Zapata, testified that it is taking longer than expected to fix the balusters because they have to order more materials and they could only make two balusters per day.

Officer Van Camp noted that a stop work order was placed on the property because the proper permits were not obtained from Town Hall, but then the contractor registered with the Town and obtained the proper permits so they could continue the work. He stated that the work has been slow in progress and there is still a lot of work to do.

Attorney Torcivia stated that the Town appreciates that work is in progress, but there was an order finding violation and today is a fine assessment hearing, so the Town's recommendation is to set the fine at \$50 per day from the date of compliance as set in the Order Finding Violation until compliance is met, along with recovery costs for today's hearing.

Special Magistrate Ashton mentioned that it is her understanding from the last order that today's hearing was set as a Fine Assessment or Status Hearing and that she did not set a definitive date for compliance. Town Attorney Torcivia stated the Town would then request a definitive date for compliance around 20-25 days from now and set another Fine Assessment/Status Hearing at which \$50 per day could be assessed at that time.

Officer Van Camp stated that he believes the work cannot be completed in time for the May hearing. Special Magistrate Ashton asked the Town if there was any objection to extending this to the June hearing date, and Town Attorney Torcivia responded that there was no objection.

Special Magistrate Ashton asked if the Respondent paid costs from the last hearing, and Town Attorney Torcivia stated that costs have been paid.

Special Magistrate Ashton advised that she would make the following findings of fact and conclusions: notice is good and sufficient for this hearing, the Respondent was present, compliance is ordered to be on May 26, 2016 or a fine of \$50 per day may be imposed, a Fine Assessment/Status Hearing will be held on June 7, 2016, and fines may be imposed at that time if compliance is not achieved, and recovery costs for today's hearing are awarded to the Town in the amount of \$244.11, to be paid within 30 days, or before the next hearing, whichever is earlier.

C. VIOLATION HEARING

CASE NO. CE#2016-006

**Bonita Realty Corp, S&B Tropics Inc., 2258 SW
Vero Beach Ln, West Palm Beach, FL 33411-
5756**

**RE: McCormick Mile Lot 71 & S 40 FT of LT
72 (6600 North Ocean Boulevard #1)**

NATURE OF VIOLATION

Violate Section 67-51 – Permit Required, of the Town’s Code of Ordinances by failing to obtain the proper permits for kitchen cabinet installation.

Attorney Torcivia summarized the case and presented Town exhibits to the Special Magistrate. He noted that permits have been obtained for this violation, but no inspections have been called in by the contractor yet.

Special Magistrate Ashton accepted the following Town exhibits into evidence without objection: Affidavit and Notice of Violation as #1, Town Code Section 67-51 as #2, Property Appraiser’s Property Detail Sheet as #3, Police Department Incident Report as #4, Building Permit #16978 as #5, and Town Recovery Calculation Worksheet for today’s hearing as #6.

The Respondent, Ms. Zapata, testified that the contractor is still working on the improvements.

Town Attorney Torcivia stated that the Town is asking for compliance by April 28, 2016, and seeks a fine of \$50 per day if not in compliance by that date.

Special Magistrate Ashton advised that she would make the following findings of fact and conclusions: notice is good and sufficient for this hearing, the Respondent was present, the property is in violation of Section 67-51 of the Town of Ocean Ridge Code, compliance is ordered to be on April 28, 2016 or a fine of \$50 per day may be imposed and will run until compliance is achieved, if compliance is not achieved by April 28, 2016, a Fine Assessment/Status Hearing will be held on May 3, 2016, and recovery costs for today’s hearing are awarded to the Town in the amount of \$250.85, to be paid within 30 days, or before the next hearing, whichever is earlier.

D. VIOLATION HEARING

CASE NO. CE#2016-005

**Luis & Theresa Vinas, 50 Harbour Drive South
RE: Ridge Harbour Estates LT 38 (50 Harbour
Drive South)**

NATURE OF VIOLATION

SPECIAL MAGISTRATE CODE ENFORCEMENT HEARING OF MARCH 1, 2016

Violate Section 67-51 – Permit Required, of the Town’s Code of Ordinances by failing to obtain a permit for fencing located along the West boundary of the property.

Attorney Torcivia summarized the case and presented Town exhibits to the Special Magistrate.

Special Magistrate Ashton accepted the following Town exhibits into evidence without objection: Affidavit and Notice of Violation as #1, Town Code Section 67-54 and Florida Building Code as #2, Property Appraiser’s Property Detail Sheet as #3, Police Department Incident Report as #4, Stop Work Order as #5, Photographs of the Property in Violation taken on March 10, 2016 as #6, Town Recovery Costs Worksheet for today’s hearing as #7, and Photographs of the Property in Violation taken on April 5, 2016 as #8.

Sergeant Kurz testified that this case began on February 20th when the Town was called by a neighbor regarding a temporary plywood fence on the West side of the property. He stated he took pictures of the property, and called the Zoning Official for a determination on the violation. A stop work order was initiated on February 25th by the Town’s Zoning Official, as no permit was obtained for the placement of the temporary plywood which was 25’ long and 4’ high held in place by bolts. An inspection was initiated by Building Official McIntosh on March 9th to see if the fence had been removed, because Mr. McIntosh knew that no permits had been obtained. Mr. McIntosh requested a compliance hearing, so on March 10th Sergeant Kurz sent a hearing notice by certified mail which indicated that the property would need to come into compliance by March 25th, or a hearing would be held. Sergeant Kurz stated that he responded to the scene on March 28th to see if a hearing was still necessary or not, and the property was still in violation at that time. Sergeant Kurz also noted that when the hearing notice was served on March 10th, he received a phone call from the Attorney representing the respondent who asked if the issue was that a permit had not been obtained or if the issue was the fence itself.

The Respondent, Mr. Louis Vinas, testified that he has had issues with neighbors in the past, and the current problem arising now is that vicious dogs are attacking his dogs. He stated he tried to fix the problem by putting up a tarp, but someone removed it. After that, he tried to put up a loose piece of wood and that was also removed. He stated when he placed the piece of plywood on the fence, the neighbor called the Town, and the problem arose when he put screws into the fence to hold the plywood. He stated that when he called the Town and Town Commissioners, they told him the violation occurred when he placed the screws, so he removed the screws and placed a strap instead. He stated his lawyer told him he complied by removing the screws. He stated that since he removed the screws, he just has a piece of plywood on his property now; it is not a fence, and that he is in compliance with the code. He stated that according to his lawyer and Commissioners that he spoke with, he already complied with the problem which was changing the approved fence. He stated the piece of wood is not touching the fence at all. He stated that when he called the Town to check that, no one called back to tell him it was not approved; someone left a message that he had to appear today. He stated he called the Town to inquire about the code so he can protect his animals.

SPECIAL MAGISTRATE CODE ENFORCEMENT HEARING OF MARCH 1, 2016

Special Magistrate Ashton noted that the plywood placement is against the Building Code, as it would have needed to be permitted. There was some discussion back and forth regarding different structures, and Special Magistrate Ashton noted that there are differing opinions on what a structure is.

Mr. Vinas submitted pictures that were taken on March 28, 2016 to show he removed the screws, and Special Magistrate Ashton accepted the pictures into evidence as Respondent Exhibit #1 with no objection.

Zoning Official, Manuel Palacios testified that the Town Code definition of fence is “structural or natural physical barrier”, and the plywood in question is a barrier as the Respondent noted to keep his dogs safe from the neighbor’s dogs. He stated that any kind of fixture requires a permit to keep it there. He stated that what Mr. Vinas has constitutes a fence which is illegal because there was no permit for installation.

Mr. Vinas stated the wood sitting by the bushes does not constitute a fence. He stated the metal fence is keeping the dogs away, not the wood. Zoning Official Palacios responded that the wood is a barrier and under the code definition, a barrier is a fence.

Special Magistrate Ashton asked Zoning Official Palacios what his credentials are, and he responded that he is the Zoning Official for the Towns of Ocean Ridge, Manalapan, Lake Clark Shores, he was the Zoning Official for Palm Beach Shores, and has been in the business for 25 years.

Town Attorney Torcivia stated that the plywood constitutes a structure and that the Town would ask that the Respondent come into compliance by April 28, 2016 by either removing the structure or obtaining a permit. If the Respondent does not come into compliance by April 28, 2016, the Town would ask for a fine assessment of \$50 per day. The Town is also seeking costs for today’s hearing in the amount of \$257.10.

Mr. Vinas stated if the Town is making him remove wood from his property, he thinks he has the right to demand that every property that has wood on their properties come into compliance as well. He noted that he is just trying to keep his animals safe, and voiced his frustration that the neighbors are calling in code violations often.

Special Magistrate Ashton advised that she would make the following findings of fact and conclusions: notice is good and sufficient for this hearing, the Respondent was present for the hearing, the property is in violation of Section 67-51 of the Town of Ocean Ridge Code, as the plywood cannot stay on the property unattached and without a permit. It poses a significant health/safety risk to the public in the event of a storm, and the Respondent will either need to remove it or obtain a permit. Compliance is ordered to be on April 28, 2016 or a fine of \$50 per day may be imposed and will run until compliance is achieved, if compliance is not achieved by April 28, 2016, a Fine Assessment/Status Hearing will be held on May 3, 2016, and recovery costs for today’s hearing are awarded to the Town in the amount of \$257.10 to be paid before the May 3, 2016 hearing.

E. ADJOURNMENT

The meeting was adjourned at 10:34 a.m.

Minutes were adopted on May 3, 2016.

ATTEST:

Tracey L. Stevens, Town Clerk