

# **TOWN OF LAUDERDALE-BY-THE-SEA**

## **CODE/FIRE COMPLIANCE HEARING**

### **MINUTES**

*Town Commission Meeting Room*  
*Monday, February 25, 2013*  
*4:00 P.M.*

#### **I. CALL TO ORDER, SPECIAL MAGISTRATE TOM ANSBRO**

Special Magistrate Tom Ansbro called the hearing to order at 4:00 P. M. on Monday, February 25, 2013. Code Compliance Officers Tuchette Torres and Carmen Sanchez, Fire Marshal Steven Paine and Jack Morell were present at the hearing. Also present was Assistant Town Manager Bud Bentley and Eleanor Norena, Senior Office Specialist and Special Magistrate Clerk to record the minutes of the hearing.

#### **II. SWEARING OF WITNESSES**

The Special Magistrate administered the oath to all those that were present to testify.

#### **III. OPENING STATEMENT**

The Special Magistrate explained hearing procedures.

##### **A. APPROVAL OF MINUTES OF PREVIOUS HEARING**

January 28, 2013 Code Hearing – The minutes for January 28, 2013, were approved.

##### **B. COMPLIANCES – Code Officer Torres noted the following cases were in compliance**

1. C#:13010018 – 4617 El Mar Drive
2. C#:13010020 – 4342 Tradewinds Avenue

#### **IV. NEW BUSINESS - CODE CASES**

##### **ITEM #IV.3**

Case #:12120013

Property Owner: Lauderdale Resorts LLC

Address/Folio: 4605 N. Ocean Drive

Code Section(s): Chapter 30 - Unified Land Development Regulations Section 30-502A.(13)(b), (d); Chapter 6 - Building and Building Regulations Section 6-36(1)(a), 41(a)(2); Florida Building Code Section 105 Section 105.1

Officer Torres reviewed case # 12120013 and 12120014 in one presentation, as indicated in the backup and detailed the violation as follows: the "For Rent" signs on the property were larger than the code permitted, and there was more than one "For Rent" sign on the property. There were holes in some areas of the walls in apartment five, and there were miscellaneous items stored outside. She mentioned items one, five and six had come into compliance. The final violation listed was Florida Building Code section 105.1, electrical conduit and stove outlets boxes were installed without a permit, and there was illegal wiring hooked up throughout the building. She noted in room five, what used to be a closet was now a space with a stove and sink. On December 11 and 26, 2012, and February 6, 2013, she took pictures of the property and they accurately depicted the current condition of the property; she requested they be

entered into evidence, along with copies of emails she received from the state and the Building Department in reference to the permit. Violations one through four did not require 90 days to come into compliance, though she was willing to grant the 90-day extension for the work permit for the building, and she requested a split order in reference to the subject cases. The property owner already paid the \$100 administrative cost that was lowered from \$150.00.

The Special Magistrate accepted into evidence the exhibits as presented by Officer Torres for both cases, respectively. He directed the property owner to address the minor violations that could be immediately rectified, asking if the sign violation had been fixed.

Carolina Bartolome replied she had not touched the signs. With regard to the grass and cutting trees, those violations were in compliance, but she did not want to do any further work until she received a permit.

The Special Magistrate pointed out a permit was not needed to put up one "For Rent" sign that met Town code. This should have been done before attending the present hearing. He would not grant her much of an extension to rectify the simple violations, and if they were not taken care of immediately, he would impose a fine.

Ms. Bartolome stated the sign was the only unaddressed violation.

Officer Torres added, for the property at 4609, items three and four were in compliance. For the violations that required Ms. Bartolome to do the revisions required by the Florida Building Code, those could be granted a 90-day extension. However, all other issues that were not in compliance should take no more than two weeks to rectify.

The Special Magistrate ordered, in both cases, the violations requiring a permit per the Florida Building Code, the owner would receive a 90-day extension ending May 20, 2013; for all other violations, a two-week extension was granted. If the violations requiring a permit remained uncorrected, a fine of \$100 per day per violation would be imposed, and for those with the 15-day extension, a fine of \$50 per day per violation would be imposed if not corrected set to commence the day after the 15-day extension ended.

**ITEM #IV.4**

Case #: 12120014

Property Owner: Lauderdale Resorts LLC

Address/Folio: 4609 N. Ocean Drive

Code Section(s): Chapter 30 - Unified Land Development Regulations Section 30-477(a), 502A.(13)(b); Chapter 6 - Building and Building Regulations Section 6-41(a)(2); Florida Building Code Section 105 Section 105.1

Officer Torres reviewed the case as indicated in the backup and detailed the violation as follows: a tree on the west side of the property needed to be cut down, though the owner trimmed it back, it continued to grow into the FP&L wires and presented a potential safety hazard. This property contained a "For Rent" sign that was larger than the code permitted, there was also outside storage of miscellaneous items, and the violation under Florida Building Code 105.1 referred to a wall erected in room 20 without a permit. She took pictures of the property on December 26, 2012, and February 6, 2013, and they accurately depicted the property's current condition; she asked that they be entered into evidence. There were minor issues that could be corrected in less than 90 days, so she was willing to support a 90-day extension for the violations requiring a permit only.

**See Item #V.3 for the Special Magistrate's ruling.**

**ITEM #IV.14**

**\*TAKEN OUT OF SEQUENCE**

Case #: 12090007 - Certification of Lien

Property Owner: Sandra Shelhamer

Address/Folio: 259 Bombay Avenue

Code Section(s): Chapter 6 - Building and Building Regulations Section 6-36(1)(a), 37(1)(a), 38(2)

Officer Torres noted this was a status hearing and an extension request, entering into evidence a letter from the property owner, Ms. Shelhamer, requesting an extension. She stated the property came into compliance with the lawn, but more time was required to bring the pool up to code, which Town staff found acceptable.

Sandra Shelhamer, property owner, remarked her contractors stated the permits for the pool would be ready this week; the delay was due to the discovery of an electrical problem that had to be rectified before moving forward with any other work. In mid December, they put in all the permit applications: electrical, plumbing and pavers, and the holiday season added to the delay. She commented this was a residential pool fully surrounded by an eight-foot wall.

Officer Torres believed a 30-day extension was sufficient.

Ms. Shelhamer expressed concern the electrical and other work might delay the process.

The Special Magistrate recommended Ms. Shelhamer come back for a status hearing at the next Code meeting on March 18, 2013.

Officer Torres reiterated the 30-day deadline to come into compliance should still be imposed, and the Special Magistrate could decide at the March hearing, which fell short of the 30 days, if he wished to grant Ms. Shelhamer a further extension if requested. On the current fines, a \$50 per day was imposed for the landscape violation, which was now in compliance, and a \$100 for the other two violations, and they remained out of compliance.

The Special Magistrate concurred, stressing that unless Ms. Shelhamer presented a plausible reasons for them being uncorrected at the March hearing, the fines would commence running.

**ITEM #IV.5**

**\*TAKEN OUT OF SEQUENCE**

Case #: 13010005

Property Owner: Dale & Barbra Roberts

Address/Folio: 4137 Seagrape Drive

Code Section(s): Chapter 30 - Unified Land Development Regulations Section 30-221(a)(1), 477(a); Chapter 6 - Building and Building Regulations Section 6-36(4), 37(1)(b), 41(a)(2); Florida Building Code Section 105 Section 105.1

Officer Torres indicated the property owner's representative was present with handwritten authorization to represent him. She reviewed the case as indicated in the backup and detailed the violation as follows: a complaint was filed with the Town on a possible illegal conversion and electrical work without a permit from the FP&L meter, there was missing and dead lawn cover. On February 22, 2013, she took pictures of the property, which she wished to enter into evidence as accurately depicting the current condition of the property. To date, items one, three, four, five and six had come into compliance. She requested the imposition of an administrative cost of \$100, noting she met with property owner, Mr. Roberts, the past Friday and saw he opted to put down grass seeds rather than sod, and she explained to him it was unlikely to work, given Florida's weather. Mr. Roberts then asked for time to get the sod laid, and asked his representative, Ms. Hernandez, to appear at the hearing on his behalf.

The Special Magistrate accepted the pictures presented by Officer Torres into evidence.

Officer Torres thought 21 days was sufficient to bring the property into compliance. On the issue of the illegal conversion, Mr. Roberts had converted his duplex to a triplex, but he later got rid of the tenant and opened up the other room and resumed using it as a duplex. She explained to Mr. Roberts and Mrs. Hernandez, it was illegal to close off the rooms and rent them out, noting for the record, they were told if they did this again, there would be no time for compliance, as she would go straight to the Special Magistrate and request the imposition of a fine for a repeat violation.

Ms. Hernandez, representative, manager and resident of the subject property, thought three weeks was adequate time to bring the property into compliance.

The Special Magistrate urged her to get Mr. Roberts to correct the violations, as a fine of \$100 per day per violation would be imposed if they remained unaddressed after the 21-day period. He imposed an administrative fee of \$100. The 21-day period would expire on March 18, 2013.

**ITEM #IV.16**

**\*TAKEN OUT OF SEQUENCE**

Case #: 12120001 - Certification of Lien

Property Owner: Karakaya Inc.

Address/Folio: 4608 N. Ocean Drive

Code Section(s): Chapter 6 - Building and Building Regulations Section 6-36(1)(a); Florida Building Code Section 105 Section 105.1

Officer Torres reviewed the case as indicated in the backup and detailed the violation as follows: the property had been fined \$100 per day per violation and had been out of compliance for 23 days and, to date, the fine stood at \$2,300 plus a \$50 administrative fee. Item two was in compliance with reference to the mold, but the property owner never got a permit to replace the ceiling. She spoke with both the property owner and manager, and they were told by the building official they needed a permit to replace the ceiling. She requested that the lien be certified.

Shelley (Inaudible last name), the property owner's representative, stated they purchased the subject property in its present condition, and they received a credit at the closing to hire a professional mold company to address that problem, which they did and the mold was removed. The ceiling remained open, as she thought the Town inspector needed to check for mold, leaks and electrical repair, and then they would close the ceiling. After the inspection, they were sent a report, which she forwarded to Officer Torres that stated the area was clear of mold and had no leaks. Officer Torres informed them they needed a permit to close the ceiling, but she spoke with the general contractor they used for another property, and they indicated only plywood was needed to close the ceiling, so she wondered if they still needed a permit for the work.

The Special Magistrate answered yes, a permit was still required.

Shelley understood a permit was needed to close up the ceiling in the subject room.

Officer Torres reminded the Special Magistrate the owners were given the date of February 2, 2013, to come into compliance, and they received a copy of the inspector's report on February 3, 2013, but she heard nothing from the owners or their representative about the inspection until the letter for the present hearing was sent. She received a copy of the report on February 14, 2013. The owner's lawyer told her he would keep her informed as to when they got the permit but, to date, the permit had not been applied for, so she was requesting a certification of lien.

The Special Magistrate explained the process was the lien would be recorded against the property. After the property was brought into compliance, the owners had the ability to go before the Town Commission at a regular Commission meeting to request a reduction of lien. The fine would continue to run as long as the property remained out of compliance.

Shelley stated the previous owners were to have fixed the violations, and the new owners waited to see if they would; they did not understand the process, and that led to further delays. However, they now understood the process and would take the necessary steps to bring the property into compliance.

The Special Magistrate pointed out the work to correct the violations should have been done prior to the present hearing, and any arrangement, whereby the previous owner was to correct the violations, was between the previous and the current owners. The present owners had the responsibility of correcting the violations, and when this was done, they could ask the Town Commission to consider a reduction of the lien.

Officer Torres commented, after discussions with the Town's building official, staff was willing to continue the case for the certification of lien to the next Code meeting, March 18, 2013, to give the property owners ample time to get the permit for the ceiling. The fines would continue running, but the lien would not be recorded, so the case would remain within the Special Magistrate's jurisdiction.

The Special Magistrate explained the above situation to the property owner and the representative, noting they should return before him at the March 18, 2013, meeting for an update.

**ITEM #IV.12**

**\*TAKEN OUT OF SEQUENCE**

Case #: 12070004 - Certification of Lien

Property Owner: North Pointe Investments LLC

Address/Folio: 4116 N. Ocean Drive

Code Section(s): Chapter 6 - Building and Building Regulations Section 6-38(2)

Officer Torres reviewed both cases in one presentation, as indicated in the backup, noting case # 12070004 was heard by the Special Magistrate on December 17, 2012, and the fine was reduced from \$35,000 to \$7,500 plus the \$250 administrative fee payable within 30 days of the order. If the amount remained unpaid after 30 days, it was to

revert to the original amount. Town staff requested the original fines be reinstated and a certification of lien ordered, as the lower fee remained unpaid. The same situation applied to case# 12080005, in which the fine was reduced from \$10,750 to \$7,500 plus the administrative fee of \$250 payable within 30 days. This too was unpaid and the Town issued the same request as the first case as to the reinstatement of the original fine.

Michele Kymko, legal representative for the property owners, remarked appeals on both cases were filed in a timely manner and were accepted by the Town Attorney's office, and she had both appeals case numbers, which she read into the record as 13-0152212 and 13-0152008. She said their firm was not noticed by the Town about the present hearing, despite them being the attorney of record for both cases, and she learned about the hearing at 3:00 p.m. She stated the Town had taken the position that these cases was not properly stayed, so she was asking for a *ore tenus* motion to stay, as both appeals were timely filed.

Officer Torres commented, under State Statute 162, the Town was only required to serve notice to the property owner if there was a registered agent, which was done; a notice was sent to both the property owner and posted on the property. Historically, whenever the subject owner received a notice from the Town, he informed his attorney.

The Special Magistrate denied the motion in both cases, noting Ms. Kymko had the right to appeal. He was aware the Town was unhappy with his earlier reduction of the fine in both cases, but he had done so with the hope that the properties would have been brought into compliance. Ms. Kymko had not been with the case since its inception, and he informed her it had been a most unpleasant experience for all involved.

Ms. Kymko said the matters were already before a Circuit Court judge, so they would schedule a hearing accordingly.

The Special Magistrate ordered liens for both cases to be certified.

**ITEM #IV.13**

**\*TAKEN OUT OF SEQUENCE**

Case #: 12080005 - Certification of Lien

Property Owner: North Pointe Investments LLC

Address/Folio: 4116 N. Ocean Drive

Code Section(s): Chapter 30 - Unified Land Development Regulations Section 30-313(4)(i)

**See Item #V.12 for the Special Magistrate ruling.**

**ITEM #IV.11**

**\*TAKEN OUT OF SEQUENCE**

Case #: 13010019

Property Owner: Thomas Breza

Address/Folio: 4341 Bougainvillea Drive

Code Section(s): Florida Building Code Section 109.6 Section 110.15

Assistant Town Manager, Bud Bentley, noted the property owner was not in attendance, so it appeared he felt he had no testimony to offer.

Officer Torres stated, for the 40-year inspection, the decision was made to continue to the case, as the owner submitted payment but the paperwork submitted was incomplete. As Town staff did not get service, due to the case being continued, the matter had to be continued again, as the owner had not signed for his certified mail, and that was necessary for service. She asked that the case be continued to the March 18, 2013, hearing.

The Special Magistrate so ordered.

**ITEM #IV.6**

**\*TAKEN OUT OF SEQUENCE**

Case #: 13010007

Property Owner: Murat Kiroglu

Address/Folio: 240 Imperial Lane

Code Section(s): Florida Building Code Section 105 Section 105.1

Officer Torres reviewed the case as indicated in the backup and detailed the violation as follows: the pool permit expired on October 8, 2012. She found out earlier in the day from the Building Department that the owner came in on

Thursday and renewed the permit, but part of her request action for compliance, as stated in her narrative, was that they pass the final inspection. The subject property owners appeared before the Special Magistrate on numerous occasions, and she was requesting the issuance of a final order requiring them to pass a final inspection in reference to the current permit. She indicated, in this way, if the permit expired again, they would be fined as a repeat violation, as the situation with the subject property had persisted since 2008 and was a nuisance to the surrounding neighbors. She asked that an administrative cost of \$250 be imposed. On January 22, 2013, she took pictures, which she asked to be entered into evidence. The owners were in the process of putting up a new fence but never installed the screening material ordered by the Special Magistrate. She sought a daily fine if not brought into compliance.

Assistant Town Manager, Bud Bentley, affirmed the subject property had a long history of violations and pulling permits and letting them expire, and there were ongoing fines in several of those cases. In the subject case, there was an existing condition that there was no structural or physical reason for the building not to be completed. It was an eyesore for the neighborhood, causing secondary problems for neighbors, both across the canal and adjoining neighbors. He suggested ordering completion of the work in 30 days or a fine of \$250 per day would commence.

The Special Magistrate ordered the imposition of an administrative fee of \$250, and a fine of \$250 per day if the work was not completed and passed inspection in 30 days. He asked Officer Torres to encourage a representative for the property to appear at the hearing(s) in the future, as they usually attended.

Officer Torres believed the owner decided not to attend, due to them having a current permit and their working on getting the fence. She informed the owner of her intent to proceed with the case, but she would encourage him to attend future hearings.

**ITEM #IV.7**

**\*TAKEN OUT OF SEQUENCE**

Case #: 13010009

Property Owner: Joseph & Adele Pacini

Address/Folio: 1460 S. Ocean Boulevard

Code Section(s): Florida Building Code Section 105 Section 105.1

Officer Torres reviewed the case as indicated in the backup and detailed the violation as follows: a permit was applied for a new hot water heater, which became null and void due to the inspector's inability to inspect the installed heater; she entered written evidence into the record to that effect. She mentioned additional work was done with respect to the subject water heater. An administrative fee of \$50 was requested, as it was a condominium. The plumber for the property contacted her, stating he thought everything was taken care of and informed her they were in the process of getting an electrical permit; he said he would let her know when they did, but no one contacted her again. She had the plumber's number and would call to let him know what transpired at the hearing.

The Special Magistrate imposed an administrative fee of \$50, as well as \$75 per day for the violation.

**ITEM #IV.8**

**\*TAKEN OUT OF SEQUENCE**

Case #: 13010010

Property Owner: Anders Wallin

Address/Folio: 1961 Windward Drive

Code Section(s): Chapter 19 - Traffic And Motor Vehicles Section 19-21(b)(4)

Officer Torres reviewed the case as indicated in the backup and detailed the violation as follows: a boat trailer was stored in the front of the property. She took pictures on numerous days, with the latest on February 22, 2013, showing another boat was added to the property; she asked for them to be entered into evidence as they accurately depict the current condition of the property. As this was a single-family home, she requested an administrative fee of \$100, stating the property had been cited repeatedly and no response had been forthcoming from the owner or the tenant in residence. She requested a final order.

The Special Magistrate ordered an administrative fee of \$100 imposed, as well as a fine of \$150 per day for each boat on the property, and he gave the owner 10 days to comply, after which the fines would commence.

Assistant Town Manager Bentley asked that the Special Magistrate retain jurisdiction for the next six months, and any documented violations would occur at \$100 per day; Town staff would present the documentation to the Special Magistrate.

The Special Magistrate so ordered.

**ITEM #IV.9**

**\*TAKEN OUT OF SEQUENCE**

Case #: 13010013

Property Owner: Karen Ryan

Address/Folio: 259 Capri Avenue

Code Section(s): Chapter 6 - Building and Building Regulations Section 6-40(b), 41(a)(18)

Officer Sanchez reviewed the case as indicated in the backup and detailed the violation as follows: overgrown grass, trash and debris all over the property, which was vacant. The property had been cited in the past and came into compliance in 2012, but in 2013, no steps were taken to correct the violations. She entered pictures into evidence, the last taken on February 25, 2013, as accurately depicting the current condition of the property. An administrative fee of \$100 was requested, as well as a final order for the Town to clean the lot if the owners failed to do the work.

The Special Magistrate ordered the imposition of a \$100 administrative fee, giving the owner 15 days to come into compliance, after which a fine of \$50 per day per violation would commence.

**ITEM #IV.10**

**\*TAKEN OUT OF SEQUENCE**

Case #: 13010017

Property Owner: James Elacqua

Address/Folio: 4473 Poinciana Street

Code Section(s): Chapter 12 - Licenses Section 12-2(a)

Officer Torres reviewed the case as indicated in the backup and detailed the violation as follows: delinquent business tax license. She noted the subject property had a lien in reference to its not having a vacation rental license and submitted into evidence the order from the hearing in 2012 from the previous inspector, as well as two printouts from "vacation rental by owner" and a "vacation rental 411.com" showing the property being advertised as a vacation rental. In the notice sent to the owner, she informed them until the vacation license was obtained, their BTR license would not be renewed.

The Special Magistrate asked if the property was currently occupied.

Officer Torres answered yes, she received no answer when she knocked, but the neighbors indicated people lived there. She requested the imposition of an administrative fee of \$50, as it should not take long for the owner to submit the paperwork for a vacation rental license, which required a state license, and those costs had to be paid. She believed 21 to 30 days was ample time to complete the process.

The Special Magistrate imposed a \$50 administrative fee, along with 21 days to come into compliance, with a fine of \$100 for the violation, set to commence after the 21 days expired.

**ITEM #IV.17**

**\*TAKEN OUT OF SEQUENCE**

Case #: 12120011 - Certification of Lien

Property Owner: Dyane Breitberg

Address/Folio: 1931 Waters Edge

Code Section(s): Chapter 6 - Building and Building Regulations Section 6-38(2)

Officer Sanchez requested a continuance for the subject case, as she spoke with the property owner, who informed her she wanted to attend the hearing but was unable to and asked that it be continued to the next Code meeting. The owner was going through some health issues, and her treatments were on Mondays.

The Special Magistrate ordered the subject case continued to the March 19, 2013, Code meeting.

Officer Sanchez mentioned the property was in compliance, but fines had been accrued.

**ITEM #IV.15**

**\*TAKEN OUT OF SEQUENCE**

Case #: 12100011 - Certification of Lien

Property Owner: Danielle Johnson

Address/Folio: 1724 Bel-Air Avenue

Code Section(s): Chapter 6 - Building and Building Regulations Section 6-40(a), 41(a)(18)

Officer Sanchez stated the property was in compliance and did so by the date set by the Special Magistrate. She asked for the administrative fee of \$250 to be certified.

The Special Magistrate so ordered.

**ITEM #IV.18**

**\*TAKEN OUT OF SEQUENCE**

Case #: 09-KP-00697 - Certification of Lien

Property Owner: Faythe Woodrum

Address/Folio: 1961 Ocean Mist Drive

Code Section(s): Status

Officer Torres commented the subject property was cited by the previous inspector due to the failure to connect to the sewer, noting the details of the case were contained in the backup. Town staff requested a change in the per diem from \$150 to \$500, as permitted by Town code when a property remained out of compliance after a certain number of days.

The Special Magistrate asked if Code staff was able to speak with the property owner.

Officer Torres replied the owner or someone signed for the certified mail, but she had no phone numbers on file.

The Special Magistrate granted the Town's request to increase the per diem to \$500.

**ITEM #IV.19**

**\*TAKEN OUT OF SEQUENCE**

Case #: 09-KP-00695 - Certification of Lien

Property Owner: Manuel Fagundes

Address/Folio: 2049 Ocean Mist Drive

Code Section(s): Status

Officer Torres commented the subject property was cited by the previous inspector due to the failure to connect to the sewer, noting the details of the case were contained in the backup. Town staff requested a change in the per diem from \$150 to \$500, as permitted by Town code when a property remained out of compliance after a certain number of days.

The Special Magistrate granted the Town's request to increase the per diem to \$500.

**ITEM #IV.20**

**\*TAKEN OUT OF SEQUENCE**

Case #: 09-KP-00686 - Certification of Lien

Property Owner: Dawn Woodrum

Address/Folio: 1936 Waters Edge

Code Section(s): Status

Officer Torres commented the subject property was cited by the previous inspector due to the failure to connect to the sewer, noting the details of the case were contained in the backup. Town staff requested a change in the per diem from \$150 to \$500, as permitted by Town code when a property remained out of compliance after a certain number of days.

The Special Magistrate granted the Town's request to increase the per diem to \$500.

**ITEM #IV.21**

**\*TAKEN OUT OF SEQUENCE**

Case #: 09-KP-00683 - Certification of Lien

Property Owner: Michael Maller

Address/Folio: 2011 Coral Reef Drive

Code Section(s): Status



The Special Magistrate noticed in for one property there were some 12 violations, which meant it would be \$150 times 12 per day if the properties were not in compliance by the end of the 90-day extension, and the second property had almost as many violations. It seemed the violations were simple issues to remedy, so 90 days would be ample time.

Mr. Paine answered correct.

The Special Magistrate asked if the owner had a chance to view the pictures taken by staff, and whether she was in agreement with the conditions depicted.

Caroline Bartolome, owner, replied she had seen Town staff's pictures of her properties and affirmed they were an accurate representation of her properties.

The Special Magistrate indicated he would accept the photographs taken by staff of the two subject properties into evidence for the record.

Ms. Bartolome confirmed she met with Mr. Paine, agreed to rectify the violations and requested a 90-day extension. She stated they needed a permit and the Town had not granted her one, and she continued to make the revisions requested by Town staff, going back and forth every day to the Town office in an effort to comply with all the rules and regulations, including completing all the necessary paperwork. She claimed to have been waiting some three months for a permit to work on her properties and had yet to receive one from the Town. This was preventing them from doing physical work on her property, and they were losing considerable funds on the properties, as they had been out of business for three months.

The Special Magistrate inquired if anyone occupied the units on the properties presently.

Ms. Bartolome answered no.

The Special Magistrate acknowledged this had to be difficult during the season.

Ms. Bartolome concurred, noting they had a contract with the Canadian government and received checks from them, as they ran a dialysis clinic and patients came down to stay at her properties due to their proximity to the dialysis clinic. The present situation was creating unhealthy delays in the patients being able to get their treatment, as they had to stay elsewhere due to her property not being habitable.

The Special Magistrate observed some of the violations were as simple as replacing batteries in smoke alarms, and that did not require a permit, or to take out an electrical cord or to put a plug plate over an electrical outlet. Ms. Bartolome could save a lot of time and money if these simple violations were corrected, as they required no permit.

Ms. Bartolome agreed but restated she was not being allowed to do work on her properties without the permit.

Town Building Official Jack Morrell remarked the subject situation had been going on since December when there was a fire at the subject properties and someone received a severe electrical shock. Mr. Paine then ordered those rooms not to be occupied, but the owner allowed them to be occupied any way. The second issue was the existing smoke alarms were installed without a permit and they appeared to be hardwired, and a permit was required to correct the other violations, as the problems with the property also involved a zip or extension cord run to the electrical outlet feeding the stove, and that was where the original problem occurred. He explained these were very dangerous situations that needed to be corrected properly, and another reason for the delays stemmed from Town staff's instructions to the owner when she submitted the original plans to the Town and sought to add some rooms to the existing structures that required other approvals regarding parking, etc. The owner resisted securing these approvals continuously, and it was only upon reaching the present status of the cases was Ms. Bartolome showing a willingness to comply, to which he had no objection, but the record needed to be clear as to the source of the delays. Mr. Morrell pointed out these were violations stemming from other violations, and proper permits were needed by the contractors the owner hired to do the work in order to come into compliance; he believed it was going to be mostly an electrical permit to cure the electrical violations. A 90-day extension was more than sufficient for the owner to bring the subject properties into compliance.

Ms. Bartolome affirmed 90 days was sufficient, and she hoped she would not have to wait a year to have a final inspection by Town staff when the work was completed, emphasizing her inability to do any work without the permits she believed the Town was refusing to grant her. Town staff continuously requested revisions to her plans, which her

architect continued to do, only to be asked to do more when the revised plans were taken back to Town staff; she needed to start working and was not allowed to touch anything on the property until the permits were granted. The electrician, engineer and architect were ready to begin work, and Town staff's repeated revisions were holding up the work. She claimed Town staff inspected the property and found nothing that would cause anyone to be electrocuted; adding the gentleman Town staff indicated was electrocuted was not filing charges against her, as he did not consider himself to have been electrocuted.

The Special Magistrate commented from his reading of the backup and in his years of experience, using electricity incorrectly was dangerous; if electrical outlets were installed or used in a risky fashion, it could lead to serious injury and even death. He questioned Town staff as to the status of the revisions Ms. Bartolome referred to, querying if her architect was competent.

Mr. Paine responded at the aforementioned meeting with Ms. Bartolome's design professionals, at which she was present, Town staff explained to them the Town required a life safety plan; they were aware of the electrical violations. He believed the architect to be competent and the electrical contractor was present at the meeting. They were made to understand, in order to move forward, they needed to get a good set of working plans submitted to the Town, and there would be no hold up getting a permit approved if that was done. With regard to Ms. Bartolome's comments on Town staff's continual requests for revisions, he stated when she was first cited, she kept bringing in drawings to the Town in an effort to avoid doing what was necessary to come into compliance, giving the plans piecemeal.

The Special Magistrate explained to Ms. Bartolome the Town required that she submit a comprehensive set of drawings for the properties, so they might look at them holistically and submit a permit for that plan.

Mr. Paine added what was on in the drawings did not reflect what was at the properties, so when Town staff received the plan, they should reflect the current state of the property, including surveys, etc. These requirements were explained at the meeting, and the design professionals were well aware of what was needed.

The Special Magistrate urged Ms. Bartolome to have her architect and electrical engineer execute the plans according to Town staff's requests and, in this way, reduce the need for further delays. The Town wanted to facilitate her providing the much-needed service to the dialysis patients, but she had to take the necessary steps to help herself, so the renovation process could move forward. It was not the job of her design team to do things piecemeal when they were being asked by Town staff to submit a comprehensive set of plans, so she needed to ensure the people she hired did as requested. Asking someone to do revisions on their plans was a normal part of business, as the aim was to ensure structures did not endanger the health and safety of the inhabitants and surrounding community. He granted Ms. Bartolome the 90-day extension, stressing that if the properties were not code compliant by May 20, 2013, she would be charged \$150 per violation per day until the violations were corrected. He noted if the professionals working for her had a legitimate reason for any delays, they had to come before the Magistrate to request the extension, stating Ms. Bartolome could not make such a request, only the professionals fixing her property. This was work that only professionals could control, not Ms. Bartolome, hence her hiring them, so she had to supervise them to make sure they were doing the work they were hired to do. The administrative charge of \$100 was per case, so Ms. Bartolome only owed the Town \$200 at this stage, and she would owe nothing further if she complied within the timeframe granted.

**ITEM #V.2**

**\*TAKEN OUT OF SEQUENCE**

Case #: 13-128

Property Owner: Lauderdale Resorts LLC

Address/Folio: 4609 N. Ocean Drive

Code Section (s): Multiple NFPA Code Violations - See Backup

**See Item #V.1 for discussion and ruling.**

**VI. ADJOURNMENT**

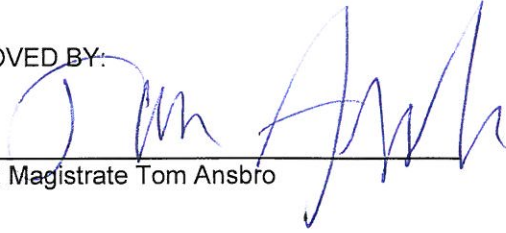
Not having any additional business to be heard, Special Magistrate Tom Ansbro adjourned the hearing on February 25, 2013.

See Item #V.1 for discussion and ruling.

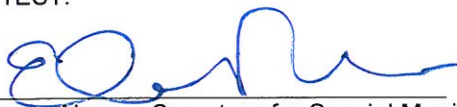
**VI. ADJOURNMENT**

Not having any additional business to be heard, Special Magistrate Tom Ansbro adjourned the hearing on February 25, 2013.

APPROVED BY:

  
Special Magistrate Tom Ansbro

ATTEST:

  
Eleanor Norena Secretary for Special Magistrate  
Town of Lauderdale-By-The-Sea, Florida