

APPROVED

**TOWN OF LAUDERDALE-BY-THE SEA
CODE COMPLIANCE HEARING MINUTES**

*Town Commission Meeting Room
Thursday, November 17, 2016 at 5:00 PM*

I. CALL TO ORDER, SPECIAL MAGISTRATE TOM ANSBRO

Special Magistrate Tom Ansbro called the Hearing to order at 5:05p.m. on Thursday, November 17, 2016. Building Official Jack Morrell, Code Compliance Inspector Bethany Banyas, and Code Compliance Inspector Sharon Foster were present as well as Special Magistrate Clerk Jhanelle Campbell to record the minutes.

II. SWEARING OF WITNESSES

The Special Magistrate administered the oath to all those who intended testifying.

III. OPENING STATEMENT

The Special Magistrate explained the procedures for the Hearing.

IV. PUBLIC COMMENTS

The Special Magistrate briefly explained State law and asked for public comments at this time or when a case was called. No one from the public spoke now.

V. CODE CASES

Special Magistrate Clerk Jhanelle Campbell said that she was calling cases first that were either in compliance or continued.

COMPLIED

1. C#:	16100011	266 Miramar Avenue	Finding of Fact
2. C#:	16090004	4405 N Ocean Drive	
3. C#:	16090005	4552 Bougainvilla Drive	
4. C#:	16060014	4225 El Mar Drive	
5. C#:	16080026	4146 Seagrape Drive	
6. C#:	16100012	224 E Commercial Blvd	
7. C#:	16060012	2031 Coco Palm Place	
8. C#:	16070012	6 Sunset Lane	
9. C#:	16080028	4260 Poinciana Way	
10. C#:	16100004	1941 Terra Mar Drive	
11. C#:	16100006	1470 S Ocean Blvd	
12. C#:	16100007	2121 S Ocean Blvd	
13. C#:	16100008	1700 S Ocean Blvd	
16. C#:	16080001	1948 Windward Drive	
24. C#:	16100015	2025 Sailfish Place	

CONTINUED

14. C#: 16090001 4513 Poinciana Street

21. C#: 16100013 218 Pine Avenue

Special Magistrate ordered the continuance removed and a hearing tonight-see page 9.)

HEARING DATE

Continue to December 8, 2016

Continue to December 8, 2016 (*The

Ms. Campbell will now call the agenda items that the Building Official will present tonight.

NEW BUSINESS**ITEM #V.22*****TAKEN OUT OF SEQUENCE**

Case #: 16070008 – Building Code Violations

Property Owner: Freeman, Matthew & Jillian M

Address/Folio: 2011 Waters Edge

Code Section(s): Chapter 30 – Unified Land Development Regulations Section 30-313(q)(2)

Florida Building Code Section 105 Section 105.1 Required

Code Compliance Inspector Sharon Foster testified that the property is a single-family home. She said that Notice was sent via certified mail but service was not obtained. The property was posted and the Affidavit of Posting is in the file. The violations are for a fence erected without a permit and a barrier for the swimming pool. On July 7, 2016, Ms. Foster observed a bamboo fence erected on the west side of the property without a permit. This fence does not meet building code because there is a pool on the property. The fence must be at least 5' and it must not allow unauthorized access to the pool area. It is to be equipped with a self-locking mechanism. On July 21, 2016, Ms. Foster received a call from Mrs. Freeman stating they were in the process of getting a permit but they were running into difficulties contacting utility companies. They were given more time and on September 9, 2016, the Building Department issued the permit and they were again given more time to get the work done. On October 12, 2016, she spoke with the Freemans who were getting the work done but needed to speak with Mr. Morrell regarding some issues with the permit and the materials of the fence. Since Mr. Morrell was on vacation, the case was continued again. Since then, the Town received a revision for changing the type of fence on November 14, 2016 which was submitted and approved. As of today, no inspections were called in for the property. Ms. Foster took pictures on July 7th and July 17th and has e-mails from the Building Department that she was requesting to be entered into evidence. Ms. Foster showed Mrs. Freeman the pictures and e-mails. The Special Magistrate entered them into evidence without objection as Town's Composite Exhibit. Building Official Jack Morrell testified that at this time, he has nothing more to add.

Jillian Freeman testified that half of the fence is almost completed but they keep running into obstacles. The hinges for the gate are being shipped from Utah right now. As soon as the gate is complete, the barrier for the pool code will be met. She explained to the Special Magistrate that the bamboo fence was taken down and a composite fence is going up. Ms. Foster said that the Town was okay with continuing the case to the December 8, 2016 hearing. Mrs. Freeman explained that it is an owner/builder permit and her husband would need more time to complete because he also works full time. She said the fence would not be completed but the code violation should be in compliance. Mr. Morrell said that the code case would not be in compliance until all the final inspections on the fence were completed. Mrs. Freeman does not think all inspections would be completed by December 8, 2016. Ms. Foster said the Town would request continuance to the January 26, 2017 hearing with no Administrative Fees assessed tonight. The Special Magistrate ordered this case continued to the January 26, 2017 hearing.

OLD BUSINESS**ITEM #V.17*****TAKEN OUT OF SEQUENCE**

Case #: 16080006 – Citizen Complaints
Property Owner: Thibaut, Jack HW & Annika
Address/Folio: 3260 Oleander Way
Code Section(s): Florida Building Code Section 105 Section 105.1 Required

Code Compliance Inspector Sharon Foster testified that this is a single-family home located at 3260 Oleander Way. She said that the case number was **16070008** and the owners were Annika and Jack Thibaut.

Notice was sent via certified mail and service was not obtained. The property was posted and the Affidavit of Posting is in the file. The violation is work without permit for erecting a bar and hot tub. She said that this case was before the Special Magistrate last month which was continued for a status hearing this month. The owners were having difficulties getting surveys and drawings from the architect. As of today, the permit still has not been issued because it is in a denied status. In reviewing the survey, other issues have been found. There is a fence in the front of the property which is within the setbacks of the property. Building Official Jack Morrell testified that a portion of the hot tub and the deck surrounding it are also encroaching the front setback as well as the front fence. Mr. Morrell said that the fence is part of the violation because it was also erected without a permit. Ms. Foster clarified that the property was not originally cited for the fence. It was just cited originally for the bar and hot tub. In reviewing the survey, the fence became an issue. Without addressing the fence, the issuance of the permit cannot move forward for the hot tub and bar. Mr. Morrell said that the permit was submitted to perfect the violations. He believes Mr. Thibaut wants to ask the Town Commission for a variance. Ms. Foster said that at the last meeting \$150 Administrative Fee was assessed and she wanted to make note that it was paid. She was not asking for any additional Administrative Fee tonight.

Mr. Thibaut testified that the fence was there since the house was built in the 1950's. He does not know why it could not be grandfathered in. He explained why he would have to ask for a variance. He received the paperwork yesterday. Ms. Foster was requesting a January 26, 2017 status hearing. Mr. Thibaut said that he was told that if his paperwork is in by December 7, 2016, his case would not go before the Town Commission before the late January 2017 meeting. The Special Magistrate continued this case for a status hearing at the February 23, 2017 Code Compliance Hearing.

NEW BUSINESS**ITEM #V.20*****TAKEN OUT OF SEQUENCE**

Case #: 16090006 – Building Code Violations
Property Owner: Garana International Inc.
Address/Folio: 4140 El Mar Drive
Code Section(s): Florida Building Code Section 110.15 – Building Safety Inspection Program 110.15

Code Compliance Inspector Bethany Banyas testified that certified mail was sent to the property owner of record on 9/3/2016 to the mailing address of record. She has a signed green card in the file. Ms. Banyas was notified by the Building Department that this property had not complied with the requirements for the Forty Year Inspection and they were sent a Notice of Violation. They still have not complied as of today. The property owners or anyone to represent them was not in attendance at the hearing. Building Official Jack Morrell answered the Special Magistrate

that they have a history of this non-compliance. He testified that this started November 10, 2015 and the Town has the green card from that time. There has been no response to date. This is actually the ten-year subsequent (fifty-year inspection). The original Notice was sent in March 2006 for the Forty-Year Inspection and they came into compliance for that inspection in December 2007. Mr. Morrell is asking for immediate action in this case because it seems to be a habit of non-compliance. Ms. Banyas answered the Special Magistrate that the property owners did receive notice but she has not heard anything personally from them. Ms. Banyas said that she even sent notices to all of the local addresses she could find and still no personal contact. She said there is a manager at this motel property who was contacted, but still no personal contact. Mr. Morrell suggested a \$50/day fine and Administrative Fee for tonight's hearing. The Special Magistrate ordered \$150/day fine if not in compliance by December 7, 2016 plus \$150 Administrative Fee to be paid by December 7, 2016. The Special Magistrate asked Ms. Banyas to make sure that the manager gets a copy of what will be sent to the property owner. He is concerned because they are housing people who need the benefit of a safe environment.

ITEM #V.23

Case #: 16100009 – Building Code Violations
Property Owner: Tollis, Sabino & Ivana
Address/Folio: 1481 S Ocean Blvd #203E
Code Section(s): Florida Building Code Section 105.11.2.1

Code Compliance Inspector Sharon Foster testified that Notice was sent via certified mail and service was obtained. The violation is a permit for removal and replacement of a water heater that expired on August 19, 2016 due to lack of progress. The Building Department sent Notice on August 9, 2016 and a Notice of Violation was sent on October 1, 2016 due to no response. As of today, the permit is still in expired status. Ms. Foster was requesting that e-mails from the Building Department and the letter that was sent be entered into evidence. She further asked for \$150 Administrative Fee. To date, there has been no effort to correct the violation. She answered the Special Magistrate that she has had no contact with anyone from the unit. The Special Magistrate accepted Ms. Foster's evidence as the Town's Composite Exhibit. The Special Magistrate ordered compliance by December 7, 2016 or a fine of \$150/day plus \$150 Administrative Fee to be paid by December 7, 2016.

Ms. Campbell will now call the agenda items from the Sign-In Sheet.

COMPLIED (obtain finding of fact)

ITEM #V.1

***TAKEN OUT OF SEQUENCE**

Case #: 16100011 – Noise Violations
Property Owner: Miramar House LLC
Address/Folio: 266 Miramar Avenue
Code Section(s): Chapter 13 – Noise Section 13-3(11)

Ms. Campbell said that the respondent did sign in but left. Code Compliance Inspector Bethany Banyas testified that this is a vacant construction site. Certified mail was sent on October 11, 2016 to the property owner of record at their address of record. The Town received the green card signed and dated. This is a new case that is in compliance. The Town was requesting a finding of fact regarding Section 13-3(11) – construction activity conducted prior to 7:00AM. Ms. Banyas said that she sent a courtesy notice on August 18, 2016 and the property came into compliance. The Notice of Violation was sent on October 11, 2016 due to numerous complaints. On October 15, 2016, the property came into compliance and remains in

compliance through today. The Town was requesting a finding of fact stating that the violation did exist but came into compliance prior to the hearing and if the violation should re-occur in the future, the property may be deemed a repeat violator and may be subject to immediate fines. She said that there are no fines or fees requested for today's hearing. The Special Magistrate ordered the finding of fact that the violation did exist but is in compliance now and if the violation should re-occur in the future, the property may be deemed a repeat violator and may be subject to immediate fines.

CERTIFICATION OF LIEN

ITEM #V.26

***TAKEN OUT OF SEQUENCE**

Case #: 16080024 – Building Code Violations
Property Owner: Richard Barrie Jr Inc.
Address/Folio: 226 Basin Drive
Code Section(s): Chapter 30 – Unified Land Development Regulations Section 30-311(c)(2)b
Chapter 30 – Unified Land Development Regulations Section 30-311(c)(7)

ITEM #V.27

Case #: 16080025 – Building Code Violations
Property Owner: Silver Shores Yacht Basin Inc.
Address/Folio: 230 Basin Drive
Code Section(s): Chapter 30 – Unified Land Development Regulations Section 30-311(c)(2)b
Chapter 30 – Unified Land Development Regulations Section 30-311(c)(7)

Code Compliance Inspector Bethany Banyas testified that these cases are the two parcels that comprise the marina. After the last hearing, the order was sent via certified mail on November 4, 2016 to both property owners of record to both mailing addresses of record. As of yet, the green cards were not returned. The property was posted on November 5, 2016. At the last hearing, the violations were found to be existing for the finger piers that exceed the allowable length and are spaced less than 25 feet apart. The finger piers are in poor condition. Ms. Banyas explained that at the last hearing, the Special Magistrate ordered the respondent to submit a full-set of documents for the site plan and marina mooring area application by November 17, 2016 or a fine would be incurred until compliance is reached. She said that the violations have not been brought into compliance. The Town did receive an application for the marina mooring area and the site plan yesterday but they were not complete as supporting documents were missing as well as other key items. The Town Planner stated that they could not be accepted for review at this time.

David Garmizo, engineer, testified that there were delays getting all the paperwork in order. There were illnesses and they had to track down the survey. Mr. Garmizo did turn in the paperwork yesterday. He received a call from Linda Connors just before lunch today that there were some deficiencies. He updated the plans and tried to turn them in today at about 4:15p.m. He spoke with Jhanelle Campbell to make an appointment with Linda Connors so he should turn in what he had tomorrow. The Special Magistrate said that this case was before him previously and he will start the fines which he could reduce if he retains jurisdiction and if there are circumstances that warrant mitigation of fines. The Special Magistrate explained that this has been dragging on for a long time. He explained when this fine would stop. Then the next step would be making the two violations compliant. Ms. Banyas said that the \$150

Administrative Fee from the last hearing (\$75 apiece for each of the two property owners) was paid in full. She was requesting \$150 Administrative Fee (\$75 apiece for each of the two property owners) for today's hearing. The Special Magistrate ordered a total fine of \$1,000/day (\$250/day/violation totaling \$500/day for each of the two property owners) starting today, November 17, 2016, until compliance plus \$150 Administrative Fee to be paid by December 7, 2016 (\$75/property owner). He further ordered that these two agenda items are listed for a status hearing at the December 8, 2016 Code Compliance Hearing. The Special Magistrate said he would entertain a motion to reduce the fine at the December hearing, if he thinks it is warranted.

COMPLIED (obtain finding of fact)

ITEM #V.5

***TAKEN OUT OF SEQUENCE**

Case #: 16080026 – Nuisance

Property Owner: EJMP 3 LLC

Address/Folio: 4146 Seagrape Drive

Code Section(s): Chapter 6 – Building and Building Regulations Section 6-41(a)(1)

Code Compliance Inspector Bethany Banyas testified that this is a non-homestead, multi-family rental property. Certified mail was originally sent to the property owner of record on August 27, 2016 to the mailing address of record with a copy to the registered agent. Since the green card was not received on time, the property was posted. This case was continued from the last hearing. The property was posted on November 11, 2016 to ensure service. The violation which became compliant prior to the hearing was for trash and litter. Ms. Banyas made multiple attempts to contact the property manager. After WastePro picked up the pile which was there about three weeks, the property manager did contact Ms. Banyas. The Town was requesting a finding of fact stating that the violation did exist but is in compliance prior to the hearing and if the violation should re-occur in the future, the property may be deemed a repeat violator and may be subject to immediate fines. There are no fines or fees for today's hearing. William Gregory said he is the owner. He testified that the tenant did not know the bulk garbage schedule. The Special Magistrate ordered the finding of fact that the violation did exist but is in compliance now and if the violation should re-occur in the future, the property may be deemed a repeat violator and may be subject to immediate fines.

CERTIFICATION OF LIEN

ITEM #V.29

***TAKEN OUT OF SEQUENCE**

Case #: 16050003 – Building Code Violations

Property Owner: Michel, Ronda I, Michel, Wayne A.

Address/Folio: 1530 S Ocean Blvd, unit #503

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

Code Compliance Inspector Sharon Foster testified that this agenda item is for certification of lien. The property is in compliance as of November 16, 2016. Fines started running on July 26, 2016 at \$150/day for 114 days for one violation. The fine is \$17,100 plus \$100 Administrative Fee for today's hearing for a total fine of \$17,200. The Administrative Fee from the previous hearing has already been paid. This is the property with interior renovations and they poured concrete on the balcony. Attorney Sam Solomon spoke on the property owners' behalf. He explained about the problems he incurred and delays experienced. He said that the co-op board stalled the process which caused fines to incur. Ms. Foster said that she had numerous conversations with the property owner who was trying to get the permits done in a timely fashion. The Special Magistrate suggested reducing the fine. He said there were no neighbors

wishing to speak on this item tonight. The Special Magistrate ordered the reduction of the fine from \$17,200 to \$500 payable by December 7, 2016.

NEW BUSINESS

ITEM #V.18

***TAKEN OUT OF SEQUENCE**

Case #: 16090012 – Property Maintenance
Property Owner: EZER Investments LLC
Address/Folio: 101 E Commercial Blvd
Code Section(s): Chapter 10 – Garbage and Refuse Section 10-31(4)
Chapter 6 – Building and Building Regulations Section 6-37(a)(1)
Chapter 6 – Building and Building Regulations Section 6-37(a)(2)

Code Compliance Inspector Bethany Banyas testified that this is a commercial property in downtown with two restaurants. Certified mail was sent on September 17, 2016 to the property owner of record at the mailing address of record. The green card was received. This is a new case. She did send a Courtesy Notice on August 20, 2016 and they did not comply, so the Notice of Violation was sent a month later. The violations are a broken window which has been boarded over, discolored walls and exterior surfaces, and a dumpster area that is unsanitary and not clean. She spoke with the property owner the first week of October. She called about the difficulties with one of her tenants not being responsive. Ms. Banyas said she knows that a tenant is moving and will vacate soon. The other tenant's manager spoke with Ms. Banyas and said he would take care of everything but it has not been done. She spoke with him today, and he said someone came out to evaluate the property. It will be done within the week. She explained that she would be asking for a final order tonight giving thirty days to comply or a \$100/day fine. The Special Magistrate ordered \$200/day fine if not in compliance by December 17, 2016 plus \$150 Administrative Fee due by December 17, 2016. The Special Magistrate asked her to drop off a copy of the order to the manager so that they know what transpired and that the Town wants compliance and not fine money. Ms. Banyas has pictures from today and yesterday that she would like to submit into evidence. The Special Magistrate entered the pictures into evidence as the Town's Composite Exhibit.

ITEM #V.19

Case #: 16090015 – Building Code Violations
Property Owner: Anglin Fam Tr % Raymond Anglin
Address/Folio: 216 E Commercial Blvd
Code Section(s): Chapter 30 – Unified Land Development Regulations
Section 30-313(v)(2)a. 1-5 & b. 4&c
Chapter 30 – Unified Land Development Regulations
Section 30-505(p)
Chapter 6 – Building and Building Regulations Section 6-36(a)
Chapter 6 – Building and Building Regulations Section 6-36(e)
Chapter 6 – Building and Building Regulations Section 6-6(a)
Florida Building Code Section 105 Section 105.1 Required
Florida Building Code Section 116.1 General

Code Compliance Inspector Bethany Banyas said the lessee of the property came in and requested a continuance. The Town granted them a continuance to December 8, 2016 due to the attorney who requested time to prepare for the Hearing. The Special Magistrate reminded Ms. Banyas that if she feels there will be disputes, etc. then perhaps assistant Town Attorney Mr. Gabriel should be in attendance for this agenda item.

CERTIFICATION OF LIEN

ITEM #V.25

Case #: 16080018 – Business Tax
Property Owner: Lurie, Anthony & Teresa
Address/Folio: 4443 W Tradewinds Avenue
Code Section(s): Chapter 12 – Licenses Section 12-2(a) Required.

Code Compliance Inspector Bethany Banyas said that the Town is acquiescing to a second continuance on this agenda item. The first one was requested by the owner as she was going to be out of town and this one is because a mother-in-law is in hospice. The violation is in compliance. The Special Magistrate ordered continuance to the December 8, 2016 Code Compliance Hearing.

ITEM #V.28

Case #: 16090003 – Vacation Rental
Property Owner: 230 Tropical Shores Dev LLC
Address/Folio: 255 Shore Court
Code Section(s): Chapter 30 – Unified Land Development Regulations
Section 30-327(a)
Chapter 30 – Unified Land Development Regulations
Section 30-327(d)

Code Compliance Inspector Bethany Banyas said that the Town was requesting an extension of time to comply. Ms. Banyas would like to put on the record for 255 Shore Court that they were ordered to comply for failure to have a vacation rental certificate. The vacation rental agent came in and attempted to comply a few days before the compliance date by filling out an application. The inspection was called in and it was found out that the agent has been mistaken while filling out the application about the assumed transfer to the new property owner who also owns the property five units north. It did not go through, so the whole application had to be done over. The intent was there and they have been doing their due diligence. Ms. Banyas asked for a compliance date of December 7, 2016 with a lien on December 8, 2016 if not in compliance. No Administrative Fee was requested for tonight's hearing but the previous Administrative Fee still needs to be paid. The Special Magistrate ordered compliance by December 7, 2016 or a lien would be placed on December 8, 2016 and the Administrative Fee from the previous hearing has to be paid by December 7, 2016.

OLD BUSINESS

ITEM #V.15

***TAKEN OUT OF SEQUENCE**

Case #: 16010011 – Building Code Violations
Property Owner: K M & Buschbaum Inc.
Address/Folio: 4217 El Mar Drive
Code Section(s): Florida Building Code Section 105.11.2.1

Code Compliance Inspector Bethany Banyas testified that this is the Buena Vista Hotel. This is the portion that is still occupied. They are still open. Certified mail was last sent on September 23, 2016 notifying the owners of a continuance. It was sent to the owners of record at their mailing address of record. A green card was not received so the property was posted on November 5, 2016. The expired permit was originally cited in January 2016. The Town agreed to continue this case until the site plan amendment has been finalized and approved by the Town. Then the owner could submit the proper corrections to the building permit. The site plan was recorded in the end of August 2016. They had since August 29, 2016 to make the

corrections to the permit. The contractor did not come in until the last week of October 2016. He still has not submitted the application for a new permit. The Town is requesting a final order giving the property owner thirty days to come into compliance by obtaining an approved permit and finishing the work. Please note that the work has actually already been done but it is not in compliance. She was recommending a fine of \$150/day if not in compliance in thirty days and requesting \$150 Administrative Fee. The Special Magistrate ordered a fine of \$150/day if not in compliance by December 17, 2016 and \$150 Administrative Fee to be paid by December 17, 2016.

NEW BUSINESS

***ITEM #V.21**

***TAKEN OUT OF SEQUENCE**

Case #: 16100013 – Vacation Rental
Property Owner: Howard, Benjamin R
Address/Folio: 218 Pine Avenue
Code Section(s): Chapter 12 – Licenses Section 12-2(e)(1)
Chapter 30 – Unified Land Development Regulations
Section 30-327(d)

Code Compliance Inspector Bethany Banyas testified that this is a non-homestead, rental townhome property. Certified mail was sent on October 15, 2016 to the property owner of record at the mailing address of record. The green card was not received so the property was posted on November 5, 2016. This property was before the Special Magistrate at the last hearing. There were multiple repeat violations but some were honest mistakes on the owner's part. The fine was reduced and the property owner was advised that the fiscal year had ended and his vacation rental certificate and business tax receipt (BTR) have expired. Unless they were renewed, he could not have vacation rentals at the property. She sent the Hearing Notice when she posted the property on November 5, 2016. Mr. Howard is having a difficult time paying for the vacation rental certificate and BTR. She was requesting thirty days to comply or a fine of \$150/day plus \$150 Administrative Fee. The Special Magistrate spoke about reducing the proposed fine. The Special Magistrate ordered \$100/day fine if not in compliance by December 17, 2016 plus \$50 Administrative Fee to be paid by December 17, 2016.

VI. ADJOURNMENT

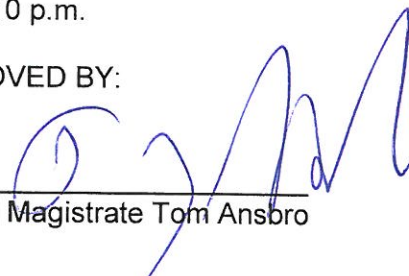
Not having any additional business to be heard, Special Magistrate Tom Ansbro adjourned the hearing on November 17, 2016 at approximately 6:10 p.m.

APPROVED BY:

ATTEST:



Jhanelle Campbell, Special Magistrate Clerk
Town of Lauderdale-By-The-Sea, Florida



Special Magistrate Tom Ansbro