

APPROVED

TOWN OF LAUDERDALE-BY-THE SEA
CODE COMPLIANCE HEARING MINUTES
Town Commission Meeting Room (Jarvis Hall)
Thursday, May 25, 2023 at 5:00PM

I. CALL TO ORDER, SPECIAL MAGISTRATE TOM ANSBRO

Special Magistrate Tom Ansbro called the hearing to order at approximately 5:10PM on Thursday, May 25, 2023 with Code Compliance Inspector Eric Villanueva, Code Compliance Inspector Sonya Lowe, Development Services Director Jhanelle Campbell, Building Official Simo Mansor, and Special Magistrate Clerk Megan Small to record the minutes.

II. SWEARING OF WITNESSES

The Special Magistrate administered the oath to everyone speaking today, other than lawyers.

III. OPENING STATEMENT

Please note for the record that this is an in-person hearing and one person attended via Zoom.

IV. PUBLIC COMMENTS

No one from the public wished to speak now on items not on the agenda.

V. CODE CASES

The cases were heard in the order they were typed. All discussions/actions in the matters were not limited to the case summaries typed below.

SPECIAL SET

ITEM #V.19

***TAKEN OUT OF SEQUENCE**

Case #: 18020015 – Property Maintenance

Property Owner: Fishermans Pier Inc

Address/Folio: 2 E Commercial Blvd

Code Section(s): Chapter 6 – Building and Building Regulations Section 6-37(a)(1)
Maintenance appearance standards

Code Compliance Inspector Lowe testified that the Notice was issued in February 2018 and today was another Status Hearing. David Atkinson introduced himself as the owner's representative for Fisherman's Pier, Inc. They were here about 90 days ago and spoke about the progress up to that point. There were two items to work on: Topographic Survey and a Spot Survey by McLaughlin and a Benthic Survey by Chappell Group. Both were still underway but Mr. Atkinson checked today and they were very close to being finished. The next step after both were submitted was to get a CAD Drawing from McLaughlin showing the locations of the existing piles and the structure itself. The Benthic Survey assured that there were no corals on the existing piles or underneath the pier. However, there was coral on the outsides of the pier.

From the CAD drawing, they would do a diagram of where they could offset new piles for a new structure. They were getting very close. Development Services Director Campbell testified that the Town was requesting a schedule or a rough timeline of the steps moving forward within the next two weeks. The Town also wanted a copy of the submitted surveys and wanted to see the supplemental information that would be given to the Federal Government for review. Mr. Atkinson answered the Special Magistrate that he could give an estimated schedule based on the information he has. He would supply the documentation from Chappell, his report, in about two weeks and the survey from McLaughlin when completed. Then they would work with the engineer for the new pile diagram. If the next status hearing would be in three months, they should be close to having structural plans for the new structure. Director Campbell agreed to this but reminded about the rough timeline that would be due in the next 14 days and Mr. Atkinson agreed to that. There would be a 90-day continuance but a rough timeline for the resubmittal would be due in 14 days. The Special Magistrate ordered a 90-day continuance to reconvene at the August Hearing for a Status Hearing and a rough timeline would be due to the Town in 14 days plus the surveys would be given to the Town when they were submitted plus the supplemental information given to the Federal Government would also be supplied to the Town.

SPECIAL SET

ITEM #V.ADD ON #1

Case #: 23040007

Property Owner: FEMS Venture

Address/Folio: 4317 North Ocean Dr

Code Section(s): Sandwich Signs (Number and Location)
Sec. 30-508.(7)(c). B-1 and B-1-A districts.
Sec. 30-508.(c)(7)1.-4. B-1 and B-1-A districts

Code Compliance Inspector Lowe testified that Notice was issued April 23, 2023. This case has been complied but the Town was requesting a Finding of Fact. This was the fourth time this case appeared before the Special Magistrate for the same sign violations. Director Campbell clarified that this was the first time this case appeared in front of the Special Magistrate. There were four instances where the violations continued to persist and when they re-inspected, the violations were still there for four times. This was about golf cart rentals. Inspector Lowe gave copies of the sandwich signs to the Special Magistrate. Director Campbell said that the Town was requesting a Finding of Fact so that if this should happen again in the future, they could request immediate fines levied against the property. The Director said that the tenant and his business partner were here and wanted to work with the Town. The Special Magistrate accepted the photos into evidence as the Town's Composite Exhibit without objection as no one was here for this property now. The Special Magistrate ordered a Finding of Fact that the violations existed but were in compliance prior to the hearing and if the violation(s) should occur again in the future, it could be deemed a repeat violation subject to immediate and higher fines. He asked the Inspector to let the violator know that if this should re-occur in the future, he would impose a very high fine.

OLD BUSINESS

ITEM #V.8

***TAKEN OUT OF SEQUENCE**

Case #: 23030004 – Zoning Violations

Property Owner: White Cap of FL Inc.

Address/Folio: 4325 N Ocean Dr

Code Section(s): Chapter 30 – Unified Land Development Regulations – Section 30-326(a)(3) Awnings and Entrance Canopies. Required Permit
Chapter 30 – Unified Land Development Regulations – Section 30-327(f) Awnings and Entrance Canopies. Signage

Chapter 30 – Unified Land Development Regulations – Section
30-508(c)(7)a.1-4
Chapter 6 – Building and Building Regulations Section 6-5(d)(1)
Chapter 6 – Building and Building Regulations Section 6-38(a)

Special Magistrate Clerk Megan Small announced that this case was complied and the people who were in attendance tonight already left.

NEW BUSINESS

ITEM #V.15

***TAKEN OUT OF SEQUENCE**

Case #: 23040006 – Permits Required Violations

Property Owner: Marrone-Speer, Maria Est

Address/Folio: 231 Lake Ct 1-4

Code Section(s): Florida Building Code FBC BCA Section 105.1. Permits. Required

Code Compliance Inspector Lowe testified this was the first time this case was heard. The Notice was issued on April 5, 2023. Service was achieved by a signed green card in the file. The violation was work without permit. She explained that the Building Official was requesting a signed letter regarding securing the pilings or have them removed. Robert Slotkin testified that he was the personal representative for the estate of Maria Marrone. He answered the Special Magistrate that he was an attorney. He just became aware that there were three different improvements made without a permit. He did not know anything about needing a letter about the pilings. He looked at the Town's photos and the Special Magistrate told him if he had objections, he would note them. The attorney did not have any objections. The photos were accepted into evidence by the Special Magistrate as Town Composite Exhibit without objection.

The attorney said for the dock being removed, he was told that it washed away in the storm. He asked the Special Magistrate to waive that one because he could not get an after-the-fact permit for something like that. For the other two violations, new pilings installed in the waterway and several a/c units installed with varying manufacture dates were both installed with a permit, he was trying to figure out who did the work. He would keep looking for the contractor who did the work or find someone else who could get the after-the-fact permit(s). He was requesting 90 days to do this but was unsure how long the permitting process took. The Building Official testified that he spoke with someone in the family who asked him for more time. He explained to the attorney that if he could not get a contractor within two weeks to look at the a/c's and the electrical installation and to tell the Town it was all according to code, the power would be cut because this could be a safety issue. He was told that for the dock, it was floating and we were close to hurricane season. This needed to come off. On the piling side, the pilings need to be certified by an engineer that they were well anchored and would withstand 170 mph wind or they need to come out before the first of June. The Special Magistrate explained that this put other people at risk in the canal area. To protect the City and the liability of the City, the Building Official requested the order to be completed by June first (hurricane season). The Building Official explained how the attorney should go about getting this done timely. The attorney answered that there were tenants living in the property. The a/c should be easy to get someone to certify and the pilings would require an engineer to certify they could withstand 170 mph wind, and then find someone to do the dock. The Building Official's concern was safety and to give the attorney two weeks to June 8, 2023 or fines to accrue thereafter of \$50/day for the a/c units and \$150/day for the pilings plus \$50 cost for today's hearing. The Special Magistrate ordered compliance within two weeks from today, by June 8, 2023, by having the correct signed documentation for the a/c units stating they were installed up to code or remove them from the property or the power would be pulled and \$50/day fine to accrue thereafter and for the pilings, an engineer's letter (marine or structural)

stating the pilings were safe to remain in place and could withstand 170 mph wind or a fine of \$150/day plus \$50 cost for today's hearing due immediately or payable within thirty days.

OLD BUSINESS

ITEM #V.9

***TAKEN OUT OF SEQUENCE**

Case #: 21080006 – Permits Required Violations

Property Owner: Isla Bella LLC

Address/Folio: 4324 Seagrape Dr 1-4

Code Section(s): Florida Building Code 6th Edition (2017) FBC BCA Section 105.1.
Permits. Required

Code Compliance Inspector Lowe testified that Notice was issued August 20, 2021 and the signed green card was in the file. She explained that work was done without a permit which was like a second layer. The Special Magistrate said that it was like another unit but the power was cut and no occupancy allowed there until it was certified for occupancy. Everyone was reminded that this agenda item was in front of the Special Magistrate many, many times. The inspector gave photos to the Special Magistrate and said that the property manager was here to ask for more time. The Special Magistrate Clerk said that besides the property manager, there was someone attending via Zoom. The property manager was also given a copy of the photos and the Special Magistrate accepted the photos without objection into the file as the Town's Composite Exhibit. Building Official Mansor testified that the owner was allowed to rent the three units downstairs but the fourth unit had to be brought into compliance. As it turned out, there were issues with the three units downstairs. For example, the smoke detectors were not there and the Business Tax Receipt (BTR) could not be issued. They were trying to work with the owner because he was trying to work with the Town and the units were not rented.

In looking at the plans, Building Official Mansor said that the architect clearly mentioned the work that was done on the fourth unit did not comply with the Florida Building Code of the High Velocity Hurricane Zone. Because of this comment, we could not let the permit be done in three phases. We were in a different situation for that unit which must be corrected immediately. Building Official Mansor explained that he just received a letter via email from the architect who was going to work on a revision to fix the situation. The Building Official said that the letter was on letterhead but it was not signed. We need to have plans on how to secure that unit and make it compliant with the hurricane velocity zone especially since hurricane season was about a week away. The Special Magistrate asked about the risk to the unit directly beneath the fourth unit and the Building Official said he would have to see the plans again for that unit. He further answered the Special Magistrate that we might have to shut down that unit as well. The architect must give the Town something in writing very quickly. We must get the liability out of the Town so things must move fast on this. The property manager, Pat Cruz, testified that they got the smoke detector for unit 2 and unit 1 and unit 3 (the designated handicap unit) each had a back-up smoke detector. They were working on the vacation rental binder. She testified that people were not renting any of the units now. Eddie Errutia, owner, was in attendance via Zoom today and Ms. Cruz testified that they were ready to go forward with the fire exits.

Mr. Errutia gave his name and address in California. He testified that what they were talking about was the bedroom in the back. From what the architect told him, he clarified that the issue was not the upstairs but rather the bedroom in the back which used to be a sunroom. He explained what happened when they went to the Zoning Department and that it was not the whole upstairs but rather the back and the upstairs' second bedroom and he needed more time to get it done. He also just received, just like the Building Official did, the letter via email. He felt that the

permit for Phase 2 was approved but the Town threw in the permit for Phase 3 making it part of Phase 2 at the last minute.

Development Services Director Campbell testified that the Town was asking for compliance in two weeks, June 8, 2023, to receive the documentation from the architect to show the plan for putting that second bedroom into compliance with the Hurricane Building Code (hurricane velocity zone). Until such time as we sort out the issue with the bedroom on the second floor (in the fourth unit), the unit below it could not be rented. The other two units, if we have the binders and the smoke detectors in place, we were inclined to issue the BTR. If the Town did not receive those plans for the fourth unit upstairs by June 8, 2023, the fine would be \$150/day until we receive it. The owner testified that this has cost him a lot of money due to lack of revenue because of not being able to rent the units. The Director explained that this was for safety purposes until this was sorted out for the back bedroom upstairs, they could not allow the unit below it to be rented. The Town was trying to work with him by allowing the other two units to be rented as soon as the binder was turned in and the smoke detectors were cleared. She explained to the owner that he was given two weeks to give the Town the plans so your third unit would only be two weeks behind and you could finish your fourth once it was determined by the Town that there was a plan in place.

The owner testified that he would be in Town on June 9th and previously told Inspector Lowe that he would get the binder to her then and would install the smoke detectors also. He reminded that he lived in California. The Special Magistrate said that if he was asking for an extra day, he would go with compliance by June 9th instead of June 8th. Director Campbell said that as far as the 4th unit upstairs, they would want the information from the architect on June 9th as to how they would address that back bedroom. From those plans, if the Building Official was comfortable with the information received, he would be able to give the clearance for that 3rd unit downstairs to be rented and the 4th unit upstairs would have to be worked on.

The Building Official testified that the architect just threw everything at the Building Official and on the owner, leaving the architect in the clear because he told us. He informed the owner that he had to act on it or both of them would be fined. Your architect must tell you what has to be done in order to be in compliance. The owner asked the Building Official or Patty Cruz to show that letter from his architect to the Special Magistrate. Mr. Errutia said that everyone knew what had to be fixed, that was phase 3, but now you were throwing it all together. Director Campbell testified that when the information arose that a portion of the building was not constructed to code, the Town had to ensure the safety of the inhabitants of the building. The architect had to turn in what was requested by June 8th. The Town was giving the owner the time to become compliant by June 9th, as the owner said he would be in Town then.

The Building Official wanted to make himself clear and testified that he wanted the plans but he also wanted what needed to be fixed done right away. He wanted to know how the architect would fix this to be hurricane proof and then get it fixed. He wanted both – what needed to be done/fixed and then do it. The Special Magistrate made it clear that plans had to be submitted and the work had to be physically done to ensure that the unit on top was safe and the unit below it was safe by June 9th. The Building Official wanted a signed and sealed letter from the architect stating what needed to be done in order to be compliant with the hurricane velocity code. A discussion ensued. The Special Magistrate ordered compliance by June 9th for the smoke detectors and the binders, a signed and sealed architect letter stating the plans for everything that must be done for complete compliance of the Florida Building Code / Florida Building Code of the High Velocity Hurricane Zone including and not limited to plans on how to secure the unit upstairs and that the unit below it was safe and getting everything done/fixed or a fine of \$150/day to

accrue thereafter plus \$50 cost for today's hearing due immediately or payable within thirty days and return to the June 22, 2023 Hearing.

NEW BUSINESS

ITEM #V.10

Case #: 23040001 – Permits Required Violations
Property Owner: JJTA Real Properties LLC
Address/Folio: 260 Allenwood Dr
Code Section(s): Florida Building Code FBC BCA Section 105.1. Permits. Required

For the record, there was no one in attendance today for this property. Code Compliance Inspector Villaneuva testified that this was for work without a permit for a complete interior alteration. This violation was found through a BTR Inspection. He had an Affidavit of Posting for the address as he did not receive a signed green card back from the owner. The owners submitted a permit to rectify the situation. He answered the Special Magistrate that no one was renting this property. He had evidence to submit to the Special Magistrate who accepted the photos into evidence as Town Composite Exhibit with no objection (no one was here to object). The Town was requesting a Final Order giving until June 21, 2023 for compliance, if not a fine of \$250/day to accrue thereafter. Compliance would be an issued permit for all the work that was done plus \$50 cost for today's hearing. The Special Magistrate ordered a Final Order giving until June 21, 2023 for compliance by obtaining an issued permit for all the work done or \$250/day fine to accrue thereafter plus \$50 cost for today's hearing due immediately but payable within thirty days.

ITEM #V.11

Case #: 23040003 – Business Tax
Property Owner: Swanton Street 184 LLC
Address/Folio: 239 E Commercial Blvd 101
Code Section(s): Chapter 12 – Licenses Section 12-2.(a) Business Tax Receipt Required
Chapter 30 – Unified Land Development Regulations Section 30-502 (e) Window Sign

For the record, there was no one in attendance today for this property. Code Compliance Inspector Villaneuva testified that this was for no BTR on one of the units and window wrapping on another unit. This was a commercial building with three units on the bottom and the upstairs was residential. He made numerous attempts to contact the property owner and property management but was ignored. He did receive an email from the property manager, Richard Slater, and per his request the inspector sent him information on the violations. He never received a reply. The inspector gave his evidence to the Special Magistrate who accepted the one page containing two photos depicting the two violations as Town Exhibit without objection. The Town was requesting a Final Order with a compliance date of June 21, 2023 or a fine of \$100/day/violation plus today's cost of \$50. The Special Magistrate ordered a Final Order for compliance of the violations by June 21, 2023 or a fine of \$100/day/violation to start accruing thereafter plus \$50 costs for today's hearing due immediately but payable within thirty days.

ITEM #V.13

Case #: 23030006 – Permits Required Violations
Property Owner: Beach View Apts LLC
Address/Folio: 4149 Bougainvillea Dr 1-5
Code Section(s): Florida Building Code FBC BCA Section 105.1. Permits. Required

For the record, there was no one in attendance today for this property. Code Compliance Inspector Villaneuva testified that this was for work without a permit. On Saturday, March 20, 2023, while on patrol he observed work being done on the roof. He notified the Building Official and the Chief Structural Inspector on Monday who both visited and determined that the roof was redone without a permit. He issued a Notice but the green card was not sent back in the mail. He posted the property and at City Hall. He had evidence, one page with photos, showing the work being done on that Saturday which was accepted into evidence without objection by the Special Magistrate. He did make contact with the person he believed was the property manager. He met with a contractor onsite a few weeks ago who was inspecting the work that was done and an engineer said that the work done was no good and had to be redone. At this point, they have not submitted for permit for all work done without permit but they said they would. The Town was seeking a Final Order with compliance by June 21, 2023 or a fine of \$250/day to accrue thereafter plus \$50 cost for today's hearing. The Special Magistrate ordered a Final Order for compliance by June 21, 2023 or a fine of \$250/day to accrue thereafter plus \$50 cost for today's hearing due immediately but payable within thirty days.

Building Official Mansor departed the hearing.

SPECIAL SET

ITEM #V.ADD ON #2

Case #: 23010015 - Building Code Violations

Property Owner: South Leisure By The Sea Association

Address/Folio: 234 Hibiscus Ave

Code Section(s): Florida Building Code Section 110.15 Building Safety Inspection Program

Code Compliance Inspector Lowe testified that this case had a green card on file which was supposed to be for this hearing but it was an error. The Town was requesting to put this on the June 22, 2023 Hearing Agenda. She answered the Special Magistrate that Notice was sent January 25, 2023. This was a 50-year inspection. Fire Marshal Steve Paine went out and did the fire inspection yesterday. Development Services Director Campbell testified that this already had a comply-by date and the Town was asking to extend the comply-by date and to appear at the next hearing, June 22, 2023 with a new comply-by date of June 21, 2023 so that the proper Notice of Hearing could be sent out. The Special Magistrate ordered a revised Final Order with a new comply-by date of June 21, 2023 and return to the June 22, 2023 Code Hearing.

Special Magistrate Clerk read into the record the cases that would be continued for which the Special Magistrate ordered continuance.

CONTINUED CASES (June and July)			
Item #	Case #	Property Address	Continued To:
1	22070008	4553 Bougainvillea Dr	6/22/23
2	21100021	4900 N Ocean Blvd	6/22/23
4	22020002	262 Commercial Blvd	6/22/23
5	23030011	4209 El Mar Dr 1-9	6/22/23
6	22050002	229 E Commercial Blvd	6/22/23
7	23030010	260 Hibiscus Ave	6/22/23
14	23050001	4245 N Ocean Dr	6/22/23

CONTINUED CASES (June and July)			
Item #	Case #	Property Address	Continued To:
16	23040004	1431 S Ocean Blvd 38	6/22/23
17	23040005	1431 S Ocean Blvd 41	6/22/23
21	21120003	2000 S Ocean Blvd	6/22/23
3	23010007	1530 S Ocean Blvd	7/27/23

Special Magistrate Clerk read into the record the cases that were complied.

COMPLIED CASES		
Item #	Case #	Property Address
12	23040012	1801 E Terra Mar Dr LLC
18	22030010	226 Hibiscus Ave
20	23040009	2 Sunset Lane

VI. ADJOURNMENT

Not having any additional business to be heard, Special Magistrate Tom Ansbro adjourned the Hearing on May 25, 2023 at approximately 6:00PM.

APPROVED BY:

ATTEST:


Special Magistrate Tom Ansbro


Special Magistrate Clerk Megan Small
Town of Lauderdale-By-The-Sea, Florida