

TOWN OF LAUDERDALE-BY-THE SEA
CODE/FIRE COMPLIANCE HEARING MINUTES
Town Commission Meeting Room
Monday, August 19, 2013 at 5:00 P.M.

I. CALL TO ORDER, SPECIAL MAGISTRATE TOM ANSBRO

Special Magistrate Tom Ansbro called the hearing to order at 5:00 p.m. on Monday, August 19, 2013. Code Compliance Officer Tuchette Torres was present at the hearing. Also present were Town Planner Linda Connors, Code Compliance Inspector Sharon Foster and Clerk Idalia Gutierrez to record the minutes of the hearing.

II. SWEARING OF WITNESSES

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

III. OPENING STATEMENT

Special Magistrate Tom Ansbro explained procedures for the hearing to those present.

A. APPROVAL OF MINUTES OF PREVIOUS HEARING

June 17, 2013 Code/Fire Compliance Hearing – The minutes of June 17, 2013 were previously approved by Special Magistrate Jeff Sheffel.

B. COMPLIANCES & CONTINUANCES

Idalia Gutierrez noted the following cases were in compliance.

- 2. C#: 13060013 – 1931 Waters Edge – Complied
- 5. C#: 13070002 – 4137 Bougainvilla Dr. – Complied
- 6. C#: 13070003 – 4313 Bougainvilla Dr. – Complied
- 10. C#: 13070036 – 2 E. Commercial Blvd. – Complied
- 12. C#: 13080001 – 3261 Fiesta Way – Complied
- 14. C#: 13080006 – 4628 El Mar Dr. – Complied

IV. CODE CASES

ITEM #IV.3

***TAKEN OUT OF SEQUENCE**

Case #: 13060015 – Nuisance
Property Owner: Patricia Pereira
Address/Folio: 4648 Bougainvilla Dr.
Code Section(s): Chapter 6 – Building and Building Regulations Section 6-41
(a)(11), (a)(12), and (a)(2)

Officer Tuchette Torres testified that on May 22, 2013, the previous Inspector, Michael Torres, inspected the property and issued a Courtesy Notice. Notice was sent on June 27, 2013 via certified mail and service was not obtained but it was obtained through personal service. Officer

Torres discussed the nature of the violation. Pictures were taken by Officer Tuchette Torres on August 15, 2013 that truly and accurately depict the condition of the property. Officer Michael Torres took pictures on May 22, 2013. Officer Tuchette Torres showed Ms. Pereira all pictures and documents. She submitted the pictures to the Special Magistrate for the record. He accepted them as the Town's evidence. Officer Torres said that none of the items discussed were made compliant. She was not requesting an Administrative Fee. Officer Torres said that this came in as an anonymous complaint that said the car was not moved since Hurricane Wilma. The Town does not have a car cover code but the vehicle must be operable and have a current tag. She said that Ms. Pereira feels there are no violations as the car is on her property and she turned the plate into the state. She did repair the tire but there was still no battery or current tag.

The property and automobile owner, Patricia Pereira, told the Special Magistrate that she has a health condition that prevents her from driving. The car is inoperable right now by choice. She has two neurological conditions and would give a note to the Special Magistrate from her doctor but did not want her health condition to be public record. As she did not intend to insure a car she could no longer drive, per Florida law, she surrendered the car license plates to the State. The car is parked on her property in a private stall. It does not bother anyone. She keeps a car cover over it. Right now she has a tarp on it as she is awaiting the outcome of this meeting. She did not abandon the car, as it is on her property. She intends to drive it again in the future when she is able. She read into the record the definition of abandoned. She took the battery out because she did not want it leaking acid. Her driver's license is current. She showed her pictures to Officer Tuchette Torres and then submitted them to the Special Magistrate.

The Special Magistrate said that the Ordinance also lists unused vehicles. The car needs to be operable or stored someplace else. He said that he would give her thirty days to find some place to store the car or make it operable and have a current tag. There was no exemption to the law because of her car cover. Ms. Pereira asked for a copy of the law and the Special Magistrate said that Ms. Tuchette Torres would give her a copy of the City Ordinance. Officer Torres read the part of the City Ordinance into the record regarding this motor vehicle situation. The Special Magistrate explained cars that were not operable were a cause of benign neglect to a neighborhood and considered a hazard. This was a City Ordinance and not a State Law. Ms. Pereira felt that this complaint was a vendetta. She wanted on the record that the Mayor came onto her property with the Town Manager to look under the car cover. She would look into pursuing that matter. Ms. Tuchette Torres said that for the record, the Mayor was not present tonight and there was no proof presented for Ms. Pereira's allegation. The Special Magistrate said that this was not relevant to the matter of the car being inoperable. If after thirty days, September 18, 2013, this matter was not compliant, there would be a fine of \$75.00/day. The Special Magistrate informed Ms. Pereira that if she has issues with the thirty days, she could ask Ms. Torres for more time.

ITEM #IV.17

***TAKEN OUT OF SEQUENCE**

Case #: 13050006 – Permits Required Violations
Property Owner: 253 Commercial LLC
Address/Folio: 253 E Commercial Blvd.
Code Section(s): Section 105 Section 105.1 Required

Officer Tuchette Torres testified that originally this was an extension request but the property came into compliance. We are here now for the fines that accrued. The fine began on July 2, 2013 at \$100.00/day and ran until today, August 19, 2013, for a total of forty-eight days. The fine is \$4,800.00 plus \$150.00 Administrative Fee. The fine was regarding a tank-less water

heater. They applied for the permit on the 15th and received it today. The matter has been resolved. The Special Magistrate asked Officer Tuchette Torres the estimates and costs to the Town. The Town recommends 25% when it comes to abating the fines which comes to \$1,200.00 excluding the \$150.00 Administrative Fee. The Special Magistrate did not want to be punitive and reduced the fine to \$300.00 to be paid within thirty days (September 18, 2013). Officer Torres asked for the Administrative Fees and the \$150.00 fee was added in. If they need more time to come up with \$450.00, they had to work with the Town. If not, then it would revert back to the original fine of \$4,800.00 plus Administrative Fee of \$150.00.

ITEM #IV.9

***TAKEN OUT OF SEQUENCE**

Case #: 13070030 – Nuisance
Property Owner: Rogers James J & Kathryn J
Address/Folio: 3280 Seaward Dr.
Code Section(s): Chapter 21 – Vegetation Section 21-26(a)

Code Compliance Inspector Sharon Foster testified that FP&L reported numerous calls of outages throughout the area. The property was visited in June by the FP&L Vegetation Specialist and the Town's previous Code Compliance Officer Michael Torres. The property has five Palm Trees that were interfering with the flow of electric utility service. All residents with interfering trees were notified and forms were left to allow FP&L to cut the trees down. On July 19, 2013 a Notice of Violation was sent certified mail and service was obtained. Code Compliance Inspector Sharon Foster said that permits were obtained to plant the trees and Mr. Rogers asked for reimbursement for the cost of the trees. To date, no arrangements have been made to have the trees removed.

Mr. Rogers testified that he had a booklet with him explaining the history of what happened and pictures. He showed it to Code Compliance Inspector Sharon Foster. Within the booklet were copies of the permits for all five trees. There was also a copy of the Right Tree – Right Place Policy. Mr. Rogers felt that he could maintain the trees as it would be a shame to take them down. He answered the Special Magistrate that the trees do not interfere with his electrical service or his neighbors. Code Compliance Inspector Sharon Foster said the FP&L Vegetation Specialist gave a form to all the property owners because the trees could not be effectively maintained by pruning. Mr. Rogers gave a copy of the booklet to the Special Magistrate who accepted it into evidence for Mr. Rogers.

The Special Magistrate wanted to hear from the FP&L Vegetation Specialist. He understands Mr. Rogers' request to leave the trees, if they can be maintained. The Town would not want to destroy something that could be salvageable. However, if there was a risk that they interfere with the flow of electric utility service, they would have to come down. This agenda item would be continued until the next meeting on September 16, 2013. Mr. Rogers would have to ensure that his tree pruning company will be at the meeting to testify. Code Compliance Inspector Sharon Foster would have to ensure that the FP&L Vegetation Specialist will be at the meeting to testify.

ITEM #IV.15

***TAKEN OUT OF SEQUENCE**

Case #: 13030014 - Business Tax
Property Owner: 4221 Bougainvilla LLC
Address/Folio: 4221 Bougainvilla Dr.
Code Section(s): Chapter 12 – Licenses Section 12-2(d)(1)

ITEM #IV.18***TAKEN OUT OF SEQUENCE**

Case #: 13060001 - Building Code Violations
Property Owner: 4221 Bougainvillea LLC
Address/Folio: 4221 Bougainvillea Dr.
Code Section(s): Florida Building Code Section 105 Section 105.1 Required and three closed violations

Officer Tuchette Torres asked if both items could be heard together. Mr. Moshe Shabat was sworn in by the Special Magistrate. Officer Tuchette Torres said that Mr. Shabat was asking for an extension for both cases. He does have the permit for the studio apartment that was illegally converted and he is being held up on his BTR because of safety issues. He needs an extension and then these cases would come back in front of the Special Magistrate for the fines. The Special Magistrates proposed to reset these two cases to the next meeting, September 16, 2013, but after discussion they were reset for the October 21, 2013 meeting. The fines could be mitigated then. Officer Tuchette Torres reminded Mr. Shabat that he only paid Administrative Costs for one item. He would have to pay the Administrative Costs for the other item as well.

ITEM #IV.16***TAKEN OUT OF SEQUENCE**

Case #: 13040020 - Property Maintenance
Property Owner: Pryor, John
Address/Folio: 4633 Bougainvillea Dr.
Code Section(s): Chapter 30 – Unified Land Dev Reg Section 30-317(g) and Florida Building Code Section 105 Section 105.1 Required and six closed cases.

Officer Tuchette Torres asked for an extension request as Mr. Pryor has two items remaining for his Final Order. He needs a permit for the canopy and also a permit to repaint the stripes in the parking lot area. The Special Magistrate said that this matter would be continued until the September 16, 2013 Special Magistrate Hearing.

ITEM #IV.1

Case #: 13050020 - Building Code Violations
Property Owner: PIO Costa Enterprises LP
Address/Folio: 4209 Seagrape Dr.
Code Section(s): Chapter 30 – Unified Land Dev Reg Section 30-313(K)(1) and FL Build Code Section 105 Section 105.1 Required

Officer Tuchette Torres testified that on May 9, 2013, the previous Code Compliance Officer Mike Torres inspected the property and issued a Courtesy Notice. Notice was sent via certified mail on May 29, 2013 and an updated Notice was sent on July 10, 2013 with a different hearing date and time. Service was obtained. The driveway was paved with asphalt and pavers were requested. Also, a permit was needed for all work done on the driveway. Officer Mike Torres took pictures and today, August 19, 2013, Officer Tuchette Torres took pictures that truly and accurately depict the condition of the property and requested that they be entered into evidence. The Special Magistrate accepted them as the Town's evidence. As of today, nothing is in compliance. Officer Tuchette Torres was requesting Administrative Costs in the amount of \$250.00. She had a fax that was sent to previous Officer Michael Torres dated June 10, 2013 stating they would get a driveway and obtain a permit. Town Planner Linda Connors said that they applied for a permit for asphalt paving and not pavers. This cannot be approved by the Town. Their asphalt was not a maintenance situation so it would not meet the Code

requirements. Town Planner Linda Connors answered the Special Magistrate that the owner was informed that the permit was not approved.

The Special Magistrate gave them until the next meeting, September 16, 2013, to tear up the driveway and redo it or they would incur a fine of \$200.00/day. He also imposed the Administrative Costs of \$250.00.

ITEM #IV.4

Case #: 13060016 - Zoning Violations
Property Owner: 4403 Tradewinds Inc.
Address/Folio: 4403 W. Tradewinds Ave.
Code Section(s): Chapter 30 – Unified Land Dev Reg Section 30-320(4)(iv) a & b

Officer Tuchette Torres requested that this be continued until the October 21, 2013 Special Magistrate Hearing. She said that they applied for their conditional use permit and she wanted to see if they were approved. The Special Magistrate honored this request and continued this agenda item until the October 21, 2013 Special Magistrate Hearing.

ITEM #IV.7

Case #: 130700004 – Sign Violations
Property Owner: Torfor Investments Inc. c/o J R Laraway CPA
Address/Folio: 4552 Bougainvilla Dr.
Code Section(s): Chapter 30 – Unified Land Dev Reg Section 30-509(1)

Officer Tuchette Torres testified that on June 19, 2013, former Code Compliance Officer Mike Torres inspected the property and issued a Courtesy Notice. Notice was sent certified mail on July 10, 2013 and service was obtained. The building had some exterior renovations and a sign was installed outside the building without a permit. Officer Tuchette Torres took pictures of the property on August 18, 2013 that truly and accurately depict the condition of the property and requested that they be entered into evidence. The Special Magistrate accepted them as the Town's evidence. As of today, the property was still in violation. No one came in to apply for a sign permit. She was requesting an Administrative Fee of \$250.00. Town Planner Linda Connors answered the Special Magistrate that this could be compliant with an after-the-fact sign permit.

The Special Magistrate finds that the violation exists based on the evidence presented. He gives them thirty days to correct or imposes a fine of \$150.00/day until this is corrected. He also assesses an Administrative Fee of \$250.00.

ITEM #IV.8

Case #: 13070024 - Nuisance
Property Owner: JJK & SGO Ltd.
Address/Folio: 3241 Fiesta Way
Code Section(s): Chapter 21 – Vegetation Section 21-26(a)

Code Compliance Inspector Sharon Foster requested to continue this case until the next Special Magistrate Hearing on September 16, 2013. It is another case regarding FP&L and a tree interfering with the flow of electric utility service. She just made contact with the owners in Canada. The FP&L Vegetation Specialist is on vacation. The Special Magistrate ordered the continuance of this case until the September 16, 2013 Special Magistrate Hearing.

ITEM #IV.11

Case #: 13070039 - Property Maintenance
Property Owner: Glynn, Raymond E & Glynn, Deborah F
Address/Folio: 297 Tropic Dr.
Code Section(s): Chapter 6 – Building and Building Reg Section 6-37(l)(a)

ITEM #IV.13

Case #: 13080005 - Nuisance/Abandoned Homes
Property Owner: Glynn, Raymond E & Glynn, Deborah F
Address/Folio: 297 Tropic Dr.
Code Section(s): Chapter 11 – Junker, Wrecked, Stolen or Abandoned Property
Section 11-22(a) – Registration
Chapter 11 – Junked, Wrecked, Stolen or Abandoned Property
Section 11-23(f) – Maintenance requirements.

Officer Tuchette Torres wanted both cases heard together. Officer Tuchette Torres said that on July 29, 2013 she inspected the property. Notice was sent via certified mail and service was obtained. She explained the seawall violation in case #13070039. She took pictures of the property on August 19, 2013 that truly and accurately depict the condition of the property and requested that they be entered into evidence. The Special Magistrate accepted them as the Town's evidence. For the record, the seawall is in disrepair and deteriorating. She was requesting an Administrative Fee of \$250.00. While searching, she found a Final Judgment, a foreclosure, recorded July 17, 2013 showing J P Morgan Chase Bank as plaintiff. She sent the Notice to them in care of their attorney. She received a letter stating they were not responsible as mortgagee and would forward to the borrowers. They reserved the right to be notified of future violations. However, Officer Tuchette Torres answered the Special Magistrate that J P Morgan Chase Bank did not state that they took title yet. They have not had a title sale. The property owner and the law office representing J P Morgan Chase Bank have signed for the notices. The tenant had to move because all services to the house were shut off. The Town Building Official posted the property and the Town would try to do a quick fix to rectify but it won't take care of the complete problem. It is a safety issue. Eventually, the seawall will cause the surrounding seawalls to buckle. The Special Magistrate finds that the seawall violation exists based on the evidence presented. He gives them thirty days to correct or imposes a fine of \$200.00/day until this is addressed. He also assesses Administrative Fee of \$250.00. He reminded Officer Tuchette Torres to follow up about the foreclosure sale and be ready to notify the bank when the bank takes ownership officially.

In the related cases, Officer Tuchette Torres said that on August 7, 2013 she inspected the property. Notice was sent via certified mail and service was not obtained. She received the service of mail after she posted the property. She explained that the property was vacant in case #13080005 and needed to be registered with the Town as such. The pool also has stagnant water and becomes a breeding ground for mosquitoes. She took pictures of the property on August 19, 2013 that truly and accurately depict the condition of the property and requested that they be entered into evidence. The Special Magistrate accepted them as the Town's evidence. The property was still in violation and she was requesting an Administrative Fee of \$250.00. She answered the Special Magistrate that there was no gate around the pool, only barriers put up by the Town as they were doing construction nearby. If someone wanted to get to the pool, they could get through the barriers. The Special Magistrate considered this a very dangerous situation. He gave them fifteen days (September 3, 2013) to resolve the pool situation or a fine of \$250.00/day is imposed until this is addressed. He also assessed an

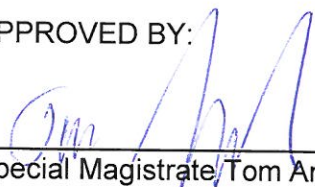
Administrative Fee of \$250.00. He requested that the bank be notified of this extremely hazardous and dangerous situation.

V. FIRE CASES

VI. ADJOURNMENT

Not having any additional business to be heard, Special Magistrate Tom Ansbro adjourned the hearing on August 19, 2013 at 5:50 pm.

APPROVED BY:


Special Magistrate Tom Ansbro

ATTEST:


Idalia Gutierrez, Special Magistrate Clerk
Town of Lauderdale-By-The Sea, Florida