

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

*Town Commission Meeting Room
Monday, July 15, 2013 at 5:00 P.M.*

I. CALL TO ORDER, SPECIAL MAGISTRATE JEFF SHEFFEL

Special Magistrate Clerk Linda Connors called the hearing to order at 5:00 p.m. on Monday, July 15, 2013. She administered the oath to all those present who intended to testify. Due to Special Magistrate Tom Ansbro's absence, Jeff Sheffel would be the Special Magistrate this evening. He gave a brief background of his legal experience and explained his local government law experience for the past twenty-five years. Also present were Code Compliance Inspector Tuchette Torres and Town Attorney Alan Gabriel.

II. SWEARING OF WITNESSES

Previously administered earlier to all those present who intended testifying.

III. OPENING STATEMENT

Special Magistrate Jeff Sheffel explained procedures for the hearing to those present. Special Magistrate Clerk Linda Connors said that the Town heard cases in the order that appellants arrived and not in the order of the agenda.

IV. CODE CASES

ITEM #IV.5

***TAKEN OUT OF SEQUENCE**

Case #: 13060001 – Failure To Have Required Permit
Property Owner: 4221 Bougainvilla Drive LLC
Address/Folio: 4221 Bougainvilla Drive
Code Section(s): Florida Building Code Section 105 Section 105.1

Officer Tuchette Torres testified that on May 29, 2013, she and the previous Inspector, Michael Torres, no relation to Officer Tuchette Torres, along with the Fire Marshall inspected the property. Notice was sent certified mail and service was not obtained. The first copy was signed and a personal affidavit was in the file. The nature of the violation was that an office was turned into a studio apartment without a permit. Due to life and safety issues for the tenant, the apartment was shut down as there was no way to egress. Pictures were taken that truly and accurately depict the condition of the property on May 29, 2013 and July 15, 2013. Officer Tuchette Torres said that before she submitted the pictures to the Special Magistrate, she showed them to the property owner and noted that violation items #1, #2 and #3 came into compliance. However, there was still the failure of not having a permit. The property owner had no objection to the pictures. Officer Tuchette Torres informed the Special Magistrate that the Town was requesting \$250 for an Administrative Fee.

The property owner told the Special Magistrate that he applied for the required permit and was awaiting approval from the Town. Officer Tuchette Torres answered the Special Magistrate that she received an e-mail from the Building Department that the permit was still under review and

there were comments needing answers. She answered the Special Magistrate that it would probably take twenty-one days to obtain the permit and thereafter get a certificate of occupancy.

The Special Magistrate found that a violation did and still existed at the property for a lack of permit. He granted twenty-one days to obtain the permit or a fine of \$250/day and \$250 Administrative Fee. The Special Magistrate modified his order to also require inspections be conducted within that twenty-one day timeframe.

ITEM #IV.6

***TAKEN OUT OF SEQUENCE**

Case #: 13060004 – No Sign Permit.
Property Owner: MJB Chelsea LLC
Address/Folio: 235 E Commercial Blvd.
Code Section(s): Chapter 30 Section 30-509(1)

Officer Tuchette Torres testified that on June 7, 2013, the previous Inspector, Michael Torres, inspected the property. Officer T. Torres stated that Officer M. Torres is not a relative. Notice was sent certified mail on June 12, 2013 and service was received. The nature of the violation is no window sign permit for unit 106 located on the property. Officer Michael Torres took pictures on June 7, 2013 and Officer Tuchette Torres took pictures today, July 15, that truly and accurately depict the condition of the property. Officer Tuchette Torres said that before she submitted the pictures to the Special Magistrate, she showed them to the business owner. For the record, the item is still in violation. The Town was requesting \$100 for Administrative Fee. When asked by the Special Magistrate, Officer T. Torres answered that #1, no business license tax, came into compliance.

The business owner told the Special Magistrate that he applied for the required permit and it was in the hands of the Town and the sign company for compliance with the type of signage needed. Officer T. Torres said that Town Planner Linda Connors spoke with the sign company this morning. Ms. Connors said that she was expecting additional information from the sign company this afternoon. She answered the Special Magistrate that ten days would be a reasonable amount of time to obtain a permit and remove any signage not covered by the permit. The business owner answered the Special Magistrate that he did not have any issues with the ten days and removal of any non-permitted signs.

The Special Magistrate granted ten days to obtain a sign permit for the property and if necessary, to remove any signage that was not allowed under the permit or a fine of \$150/day and \$100 Administrative Fee.

ITEM #IV.2

***TAKEN OUT OF SEQUENCE**

Case #: 13030007 – Nuisance/Vacant Lot
Property Owner: Lilianne And Sons LLC
Address/Folio: 1941 W. Terra Mar Dr.
Code Section(s): Chapter 6 – Building and Building Regulations Section 6-40(b)

Officer Tuchette Torres testified that on May 1, 2013 a \$150/day fine started to run. The property came into compliance on May 22, 2013 for a total of twenty-two days. The cost of the fine was \$3,330 and Administrative Costs were \$623. The Town abated the property on May 22, 2013 for \$473 plus \$150 Administrative Fee. Officer T. Torres said that the property is a vacant lot. There used to be a home there. She said the property owner was in attendance today.

The Special Magistrate said that the Town has found that the property owner ultimately brought the property into compliance only by having the Town do it for him. Special Magistrate Jeff Sheffel asked the property owner if he had any reasons why he should not assess the fine as directed by Special Magistrate Tom Ansbro. The property owner testified that he just bought the property and planned to build a home on it. That was the reason why there was no mailbox installed. He did have someone take care of the property but the property owner left Florida and did not know there was a problem until he found the letter posted on his property. Officer T. Torres said that as she did not have another address for the property owner, she had to post notices on the vacant property. The property owner further testified that he hired a landscaping company but he could not control people dumping on his property. The Special Magistrate queried if the record reflected that the property owner was in attendance at the meeting on April 15, 2013.

The Special Magistrate informed the owner that he took on responsibilities of the property when he purchased it whether he was in town or not. The property owner needed to make arrangements to take care of the property, even if there was illegal dumping or anything of that nature. Officer T. Torres said there was also overgrowth. She reviewed the total cost the owner owed the Town. The Special Magistrate reduced the monies owed to \$1,123 (\$500=fine, \$473=cutting the property, \$150=Administrative Fee). The Special Magistrate was doing this in recognition that the owner represents he was unaware of the violation until after it was cleaned up by the Town. Officer T. Torres showed pictures depicting the posting on the vacant property. The Special Magistrate gave the property owner sixty days to pay \$1,123. The property owner stated his name and mailing address into the record.

ITEM #IV.7

***TAKEN OUT OF SEQUENCE**

Case #: 13060007 - Nuisance
Property Owner: Tropic Ranch Inc.
Address/Folio: 4560 El Mar Dr
Code Section(s): 11-23 (f), 30-477(a) 30-480(a) and 6-40(b)

Officer Tuchette Torres testified that on June 4, 2013, she inspected the property. She also went back on June 18 and June 19, 2013. Notice was sent certified mail on June 19, 2013 and service was obtained. The nature of the violation is the property was vacant and not being maintained. The pool has stagnant water, there was dead tree vegetation and a huge CocoPalm Tree has fallen on the property, and the vacant property has overgrown grass and weeds. Officer T. Torres wanted to withdraw #3 as she was unsure if the tree was removed without a permit. Officer T. Torres took pictures on June 4, June 18, June 19 and July 15, 2013 that truly and accurately depict the condition of the property. Officer Tuchette Torres said that before she submitted the pictures to the Special Magistrate, she showed them to the attorney, Michele KLYMKO. Town Attorney Alan Gabriel said that he spoke to the Town Council. The violator needed to come into compliance in 16 days, July 31, 2013 or a fine of \$250/day for each violation and Administrative Costs of \$250 to be assessed. The Special Magistrate asked if that was acceptable to the property owner and the property owner's attorney answered in the affirmative.

The Special Magistrate ordered the stipulated resolution of compliance by July 31, 2013. Thereafter, a \$250/day fine per violation (noting that #3 was withdrawn) and a \$250 Administration Fee.

ITEM #IV.8***TAKEN OUT OF SEQUENCE**

Case #: 13060008 - Zoning Violations
Property Owner: North Pointe Investments LLC
Address/Folio: 4116 N Ocean Dr.
Code Section(s): Chapter 30 – Section 30-313(d)i

Officer Tuchette Torres asked for a Continuance until the August 19, 2013 Special Magistrate Hearing. The Special Magistrate said that this matter was Continued until the August 19, 2013 Special Magistrate Hearing.

Special Magistrate Clerk Linda Connors announced that this ended the cases for the property/business owners who were present.

TEM #IV.1

Case #: 13010016 - Minimum Standards for dwellings
Property Owner: Federal National Mortgage...
Address/Folio: 3270 Spanish River Dr
Code Section(s): Chapter 6 – Section 6-37(1)(a)

Officer Tuchette Torres testified that fines started running on April 3, 2013 at \$250/day and that the property was not in compliance for 104 days. The total fine as of today was \$26,000 plus \$100 in Administrative Costs. The nature of the violation is that the roof is in disrepair. The home is owned by a bank. There were about 8 or 9 open cases on this property. Officer T. Torres took a picture today of the roof in disrepair. She testified that there was no permit history. She had contact with the bank who told her they would have someone take care of this issue. Nothing has been done and it continues to be an eyesore for the neighborhood. A neighbor told Officer T. Torres that this roof has been leaking for eight years and unsure of the damage inside the house.

The Special Magistrate imposes the fine as it has accrued to date and would continue to accrue on a daily basis until brought into compliance along with the \$100 Administrative Fee.

TEM #IV.3

Case #: 13050003 - Nuisance
Property Owner: Karen Ryan
Address/Folio: 259 Capri Ave
Code Section(s): Chapter 11 Section 11-23(f)

Officer Tuchette Torres testified that fines started running on May 26, 2013 at \$250/day and that the property was brought into compliance on June 20, 2013. The fine ran for 26 days. The total fine as of today was \$6,500 plus \$150 in Administrative Costs. The nature of the violation is the pool had stagnant water in it. The bank and the realtor have agreed to pay \$2,000 from the new owner plus the \$150 in Administration Costs. The money is in escrow and the property has sold. They also took care of other obligations on the property. The Town is agreeable to the \$2,000 plus \$150 if paid within thirty days. If not, then it would revert back to \$6,500 plus \$150 in Administrative Costs.

The Special Magistrate found that the property remained out of compliance for the stated period of time. He accepts the agreed compromise to a fine of \$2,000 plus \$150 in Administrative Costs to be paid within the next thirty days. On the thirty-first day that it has not been paid, the

fine reverts back up to \$6,500 plus \$150 in Administrative Costs. The lien shall be recorded if the fine and costs were not paid by the thirty-first day.

TEM #IV.4

Case #: 13050009 – Nuisance/overgrowth weeds & grass
Property Owner: Danielle Johnson
Address/Folio: 1724 Bel Air Ave
Code Section(s): Chapter 6 Section 6-41(a)18

Officer Tuchette Torres testified that on June 27, 2013, she inspected the property. Notice was sent certified mail and service was not obtained. The Notice was posted and an affidavit of the posting was in the file. The property is in repeat violation of overgrown grass and weeds. This was a repeat violation of case #12100011. Officer T. Torres took pictures of the property today that truly and accurately depict the condition of the property and requested that they be entered into evidence. Administrative Fee of \$250 plus the fine ran from June 27, 2013 till today, July 15, 2013, and she was asking for the maximum of \$500 per day for a total of \$9,500 for this repeat violation. Officer T. Torres spoke about different scenarios regarding this property associated with fraudulent activities involving the police and animal control and this property owner owes the Town over \$600,000 for various liens, no rental license, different people living in the home, insufficiency of deed from Broward County, etc. The Special Magistrate accepts the fact that this property is in repeat violation and wanted to see the pictures taken today. He finds that the violation exists based on the evidence presented. He imposes the maximum fine of \$500 per day for each day the property remains in repeat violation. He was providing thirty days to pay the fine that has accrued thus far. If it has not been paid on the thirty-first day, a lien may be recorded.

TEM #IV.9

Case #: 13060012 - Citizen Complaints
Property Owner: Federal National Mortgage...
Address/Folio: 3270 Spanish River Dr
Code Section(s): Chapter 6 Section 6-40(a)

Officer Tuchette Torres testified that on June 24, 2013, she inspected the property. Notice was sent certified mail on June 25, 2013 and service was obtained. The nature of the violation is that the owner of the property, the bank, failed to remove and clean up the torn blue tarp that was shredding and blowing everywhere. This came in as a complaint from anonymous neighbors. Officer T. Torres took pictures on June 24 and July 15, 2013, of the property that truly and accurately depict the condition of the property. She requested that they be entered into evidence. She was asking for Administrative Costs of \$250 to be assessed. She stated that she had e-mails from the bank asserting they would take care of the situation. The Special Magistrate said that the blue tarp in the pictures definitely was on the roof far past its expected life span. He was concerned with the code provision that Officer T. Torres chose to cite them. He does not have another to offer but if this case was just for the remnants that fell down, he could accept the code that was cited. Officer T. Torres answered that the case would be for the remnants which would constitute refuse on the property. Based on the evidence presented, the Special Magistrate finds that a violation of the code provision that prohibits the failure to remove rubbish/garbage and other refuse on this property exists. Based on Officer T. Torres' communications with the bank that has ownership, he was going to impose starting in twenty days from today a maximum fine of \$250/day and a \$250 Administrative Fee to be associated with this violation.

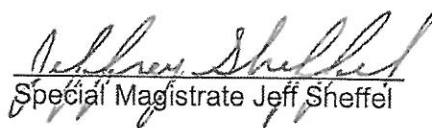
Special Magistrate Clerk Linda Connors announced that as there were no fire cases tonight, this was the conclusion of cases.

V. TOWN PLANNER REPORT

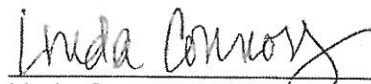
VI. ADJOURNMENT

Not having any additional business to be heard, Special Magistrate Jeff Sheffel adjourned the hearing on July 15, 2013 at 6:02 pm.

APPROVED BY:


Special Magistrate Jeff Sheffel

ATTEST:


Linda Connors, Special Magistrate Clerk
Town of Lauderdale-By-The Sea, Florida