

APPROVED

TOWN OF LAUDERDALE-BY-THE SEA
CODE COMPLIANCE HEARING MINUTES
Town Commission Meeting Room (Jarvis Hall)
Thursday, July 7, 2022 at 5:00 PM

I. CALL TO ORDER, SPECIAL MAGISTRATE TOM ANSBRO

Special Magistrate Tom Ansbro called the hearing to order at approximately 5:12PM on Thursday, July 7, 2022 with Town Manager Linda Connors, Town Attorney Joseph Natiello, Senior Code Compliance Inspector Bethany Banyas, Development Services Director Jhanelle Campbell, Assistant Development Services Director Christopher Suneson, Building Official Simo Mansor, Fire Marshal Stephen Paine, and Special Magistrate Clerk Megan Small to record the minutes. The Special Magistrate explained that this was a special meeting called to hear two cases.

II. SWEARING OF WITNESSES

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

III. OPENING STATEMENT

Please note for the record that this is an in-person hearing with no Zoom participation today. The Special Magistrate explained how the meeting would be conducted.

IV. PUBLIC COMMENTS

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

V. CODE CASES

Special Magistrate Clerk Megan Small called the first case, a fire case, into the record.

ITEM #V.1

Case #: **22-1345.**

Property Owner: K M & Buschbaum, Inc.

Address/Folio: 4225 El Mar Dr

Fire Marshal Stephen Paine testified that this case came before the Special Magistrate on June 23, 2022 as a status hearing. This is a three-story hotel, Buena Vista. It has numerous violations going back as far as January 2022. At the June meeting, they were ordered to come into compliance by June 30, 2022, or else the property shall be evacuated. The power was to be shut off as well. He said that the respondents were here today to ask for more time. The Special Magistrate clarified that this property has been before him numerous times for the same violations.

The fire marshal had evidence to submit. Exhibit A was a set of photographs taken today and Exhibit B was a posting done on June 30, 2022. The property manager and the Special Magistrate were given copies of the pictures and there were no objections to them. The Special Magistrate entered the photos into evidence as the Town's Composite Exhibit without objection. Then they received copies of the

posting and Property Manager Tanya Brown had no objection to that as well. The Special Magistrate entered it into evidence as Town's Composite Exhibit B without objection. The fire marshal went over the photos so everyone would be clear about what the pictures depicted starting with the first photo depicting the name of the building and address. Photos two through thirteen depicted the violations that were still not in compliance. He read into the record F-103.2.9 Florida Fire Prevention Code, Broward County Amendments. He explained all that he did under his authority to try to get this building fit/safe.

The Special Magistrate asked the property manager, Tanya Brown, what was the problem holding up getting the remaining violations corrected. She testified that one of their contractors, Robert Jackson, was here this evening. He was then sworn in by the Special Magistrate. Mr. Jackson explained that the doors were ordered in February but COVID pushed everything back. He tried to contact the fire marshal but he never responded. Their deadlines went dead due to no response. He said that Fire Marshal Paine then called the manufacturer yesterday and said things that Mr. Jackson was not aware of. He got a phone call to pick up a refund check due to a communication failure. As of today, he still did not hear from the fire marshal in order to have any resolve or to correct this situation. He now has the refund check and has to look for doors elsewhere. He would have had temporary doors put in but he did not hear from the fire marshal if he would approve that. When the Special Magistrate asked the fire marshal for a response, he asked to have Senior Code Compliance Inspector Banyas speak about the phone conversation. She has the invoice from which the doors were ordered on February 12, 2022. She called the company explaining who she was in regard to this case. She was told that the doors would not be here until approximately the middle of August. She answered the Special Magistrate that the company had a warehouse in Fort Lauderdale. After a second phone call, they explained that they had additional information which was that two of the three doors they believe were ready but the third one was not ready. If the person who wanted the door wanted to cancel because of the timeline, they would have to contact them. Inspector Banyas testified that she then called Tanya Brown.

Mr. Jackson said that what the inspector said was correct. However, he was told that he had to come down and pick up a refund check. He asked the company who authorized the refund check that he had to come down that day to pick up or he would not get the refund check. He was told that it was Inspector Banyas from the Town. Inspector Banyas answered the Special Magistrate that she did not authorize a refund check. She explained again that when she called the company, she told them that she was the Town's Code Enforcement Officer who did not have authority to make any changes on the order. She just wanted to understand what was going on. Mr. Jackson did not believe that Ms. Banyas did it. He felt that it was the door company and the stress. However, they were back at square one. He wanted permission to put in temporary doors from the fire marshal but the Special Magistrate said that if two of the three doors were ready, get them installed. Then, if possible, install one temporary door allowed under the code, until the third door was ready in the middle of August. Fire Marshall Paine answered that it could be a solution. As there were people at risk, the Special Magistrate wanted something done. Mr. Jackson would call the company in the morning and try to repair the relationship with them. He could then give back the refund check and ask for the two doors.

Town Attorney Joe Natiello said that he wanted to know if Property Manager Tanya Brown had spoken to the door company. Ms. Brown testified that she spoke with Mr. Jackson and relayed the conversation to him that she had on the phone with Inspector Banyas and Fire Marshal Paine. She told him what Ms. Banyas said about the doors not being done for another month or so. She also told him about being told that Ms. Banyas asked the company if the doors were not done in time and kept on being pushed back, would they be able to give a refund. The Special Magistrate asked if someone asked the company for a refund and Ms. Brown said that no one asked for a refund. The Town Attorney said that this was still a life safety issue. The Special Magistrate said he already ordered that if this was not resolved by a certain date, he would reluctantly have to tell people to vacate the building. People's lives in this building were at risk. The Special Magistrate asked Mr. Jackson that if he could not get the relationship repaired, how

long would it take to get doors from a company in West Palm Beach. Mr. Jackson felt that he could get the first company to work with him and he also reached out to West Palm Beach who could get temporary doors by next Friday. The Special Magistrate said to get the two doors from the local company and install a temporary (per Code) door until the third door was available.

Town Manager Linda Connors testified that even though things have been difficult and materials delayed, our responsibility was to ensure the safety of the residents of Lauderdale-By-The-Sea (LBTS). Every day that goes by, we have to balance the safety of the residents when we know this building is unsafe because our professional fire marshal has given us his professional recommendation that the building was unsafe. The Building Official concurs with that. Every minute that the residents remain in that building, they were at risk. She felt uncomfortable to allow this to continue. We have to draw a line because the residents in that building were unsafe, if a fire broke out. The Special Magistrate spoke again about a Live Fire Watch. The Town Manager said that she knew they had that before. Fire Marshal Paine explained the problems encountered when there was a previous Live Fire Watch (Florida Building Group).

The Special Magistrate spoke about an order for a Live Fire Watch paid for by the property owner, K M & Buschbaum Inc., by posting money in advance or the people would have to move out. He asked for more input. Building Official Simo Mansor explained how the building was designed but now there was no air conditioning and the doors stay open. He spoke about electrical wires, air conditioning and other work done without permits. He spoke about warped doors and humidity. This was something serious. Mr. Jackson said that the doors were warped when the building was bought. Town Attorney Joe Natiello asked Mr. Jackson to stop making personal attacks. Property Manager Brown answered the Special Magistrate that the property owner owned the Buena Vista Hotel and Buena Vista Apartments. The Special Magistrate wanted the property owner to house the hotel people in the apartments. Ms. Brown said that none of the apartment units were available. Discussion ensued and the Special Magistrate said he could not have the people in the hotel pack up their stuff and just call a number. He would rather order a fire watch to keep the people safe in the hotel until the situation was rectified. We might have to put a lien on the property. The Special Magistrate wanted the doors re-purchased, picked up, and installed beginning tomorrow. He wanted the temporary door or whatever the fire marshal felt could be done, to be completed.

Fire Marshal Stephen Paine testified that the Fire Department would not agree to a Live Fire Watch. It would have to be a private company. The Town Attorney said that the Town, through its Fire Department, would make sure that the Fire Watch was covered per the Special Magistrate's orders and instructions. They would pursue payment through legal means. The Special Magistrate explained that he could make payment part of the order under Chapter 162 - Florida Statutes – County or Municipal Code Enforcement. The Special Magistrate said that the Fire Watch would remain until the fire marshal lets us know that people were safe. The Special Magistrate asked the Town their suggestion as to what had to be done about the chiller and air conditioning as previously described by the Building Official. Building Official Mansor replied that he needed their engineer to give him a rundown on the ventilation in the building and the information on the 13 a/c units without permits and a load calculation on the electrical. The Special Magistrate asked about residents having a/c in the building and he was assured that they did. The Building Official said the chiller was gone. It was taken out without permits. The Special Magistrate asked the public who wanted to speak.

Roger, who lives in the hotel, testified that they were here today for the fire issue and not the air conditioning issue. The Special Magistrate explained that the electrical was not part of this case but it also was a scary issue that needed to be addressed. Roger thanked everyone for doing what needed to be done. The Special Magistrate explained that the Town was working with the property owner since January 2022 on these issues and today was a special hearing because of these emergency issues. The

Fire Watch was a solution for now but all violations need to be rectified. He further stated that when the Town Manager read about maybe having to evacuate, she became very alarmed and wanted to know what she could do to help her residents. Roger said that the Town has been great helping them out. The residents must be safe. He was glad that the Special Magistrate was thinking about them because if he had to move out, he would be out on the street. The Town and the Special Magistrate did not want anyone to suffer.

Matt McCool, who lives in the hotel, wanted to testify about eviction but the Special Magistrate said that eviction was not an option tonight so no need to worry. Mr. McCool explained about the three stairways to exit the building and each unit has a balcony. He spoke about the door situation and that he was appreciative of those who were trying to help get the doors replaced. He was reassured from the Special Magistrate that no one was being evicted tonight.

Jurgita Chrbulyte and her children came up to the podium. She is a single mother who lived in the building. She wanted to thank very much the whole Town for what they were doing for them. She had no place to go and the Special Magistrate assured that they were not being evicted. There would be people with no money who could not go anywhere else, so the Town would order a Fire Watch. People could remain in their units. She thanked the Special Magistrate and the Town. No one else requested to speak.

Fire Marshal Paine and Property Manager Brown came back to the podium. She answered the Special Magistrate that she understood what needed to be done. He also reminded that the engineer needed to contact the Building Official tomorrow regarding the information the building official requested. People should not have to run the risk of being electrocuted because of improper wiring. Fire Marshal Paine reminded about the \$250/day/violation fine running since May 26, 2022 that he wanted certified and continued to run plus \$500 cost for tonight. Inspector Banyas calculated the fine at \$21,500 running from May 26, 2022 through tonight. It would continue to run until the violations were complied. The Special Magistrate said that if asked for a fine reduction, he would not even consider it if he did not see substantial movement and progress. He did not like to see people put at substantial risk. He wanted the people who own the property to be told that he would not put up with people being at risk. He would have the Town foreclose on the lien and take the property in foreclosure. Remember that the Town did not want the money but they did want compliance. As soon as the two finished doors and the one temporary door were installed and the fire marshal said they were okay, the Fire Watch could stop but the property owner was paying for it. For the record, per Inspector Banyas, the other two code cases on this property, under Florida Building Code and under Town Property Maintenance Ordinances, were currently accruing fines at \$200/day and \$100/day respectively. After Ms. Banyas explained what the violations were, the Special Magistrate asked Property Manager Brown what was going to be done about those violations. She answered that the engineer and contractors were working on that and the permits should be in the latest by next Wednesday. He explained again that he had the ability to reduce fines but only if that was warranted. The owner needed to get his act together or he could lose the property in foreclosure.

The Special Magistrate ordered (1) the fines, which continue to accrue daily, and \$500 hearing cost certified as a lien and recorded in the Broward County Records, and (2) a live Fire Watch to be imposed beginning tonight (7/7/22) and all costs, including administrative, shall be billed to the property owner through any legal means and thereafter assessed to the property as a lien and recorded if not paid timely. The Special Magistrate also noted that the contractor needed to come into the Building Department and get a repair permit for the three doors to be installed.

Development Services Director Campbell said that the Town would cover the cost of the Fire Watch and then lien the property, if the money was not obtained from the property owner.

Special Magistrate Clerk Megan Small called the last case, a code case, into the record.

ITEM #V.2

Case #: 22030023 – Nuisance

Property Owner: Shanahan, George C Est

Address/Folio: 2036 Coco Plum Pl

Code Section(s): Chapter 6 – Building and Building Regulations Section 6-36(f)
Chapter 6 – Building and Building Regulations Section 6-38(b)
Chapter 6 – Building and Building Regulations Section 6-38(c)
Chapter 6 – Building and Building Regulations Section 6-41a)(18)
Chapter 6 – Building and Building Regulations Section 6-41(a)(2)

For the record, there was no one in attendance to represent the property owner. Senior Code Compliance Inspector Banyas submitted photos into evidence that were taken today. The Special Magistrate said that the pool looked like pea soup and all the pictures showed horrible conditions. The Special Magistrate asked why the temporary skirting to keep the children out of the pool was not done. Ms. Banyas replied that it was in progress. The Special Magistrate accepted the photos into the file as evidence as Town's Composite Exhibit. For the record, the property was serviced via regular mail. A notice was posted on the door. On June 30, 2022, a copy of the June 23, 2022 Final Order was also posted on the door. The Town was requesting an addition tonight to the Final Order for the neighborhood and public health and safety.

On July 5, 2022, the property was sent the notice for today's hearing as well as posting it at Town Hall and on the property. She left a voice message for the occupant of the property. She left another voice mail yesterday explaining what the Town would be requesting. There has been no response. The occupant has been out of town but her vehicle was in the driveway yesterday but was missing today. Ms. Banyas believed that the occupant was the owner's unmarried partner. The utility bills were in her name and being paid. The Town was requesting an order to abate all of the violations. Town Attorney Joseph Natiello said the Special Magistrate could issue the order to enter the property but the issue may be if there was a refusal. He said that the order would help the Town achieve an inspection warrant to be able to enter the property.

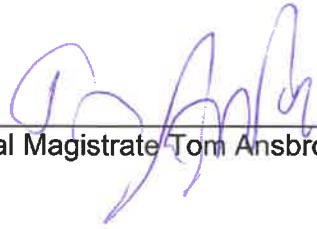
After seven days, with sufficient notice to the occupant, the Special Magistrate would authorize the Town to abate all the violations and bill the property owner. The Special Magistrate wanted the notice on the garage door written in such a way that it was easy to understand what was being abated/done. It was to include an administrative fee and cost and if the administrative fee was not paid timely, it would be assessed as a lien on the property. This did not change the previously issued order as this was just an addition. The Town Attorney spoke about the reasonable time to enter the property.

The Special Magistrate ordered that his original order from June 23, 2022 is to remain intact and to just add that the Special Magistrate has authorized the Town to abate all violations and assess the property owner for all the costs with an administrative fee if the violations were not corrected by five days after the posting of this notice. A \$250 cost for today's hearing was also assessed and this agenda item would be brought back to the July 28, 2022 Hearing for certification of lien.

VI. ADJOURNMENT

Not having any additional business to be heard, Special Magistrate Tom Ansbro adjourned the hearing on July 7, 2022 at approximately 6:30PM.

APPROVED BY:



Special Magistrate Tom Ansbro

ATTEST:



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