

TOWN OF LAUDERDALE-BY-THE-SEA

CODE/FIRE COMPLIANCE HEARING

MINUTES

Town Commission Meeting Room

Monday, June 17, 2013

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, June 17, 2013. Code Compliance Officers Tuchette Torres and Michael Torres were present at the hearing. Also present were Mayor Roseann Minnet, Assistant Town Manager Bud Bentley, Town Planner Linda Connors, Board Attorney Alan Gabriel, Building Official Jack Morrell, Fire Marshal Steven Paine, and Clerk Lisa Slagle 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

The Special Magistrate explained procedures for the hearing to those present.

A. APPROVAL OF MINUTES OF PREVIOUS HEARING

None

B. COMPLIANCES & CONTINUANCES

Code Case

7. C#:13050005 – 240 Imperial Lane

15. C#:13050023 – 1 Sunset Lane

Fire Cases

5. C#:13-1059 – 235 Commercial Boulevard

6. C#:13-1061 – 218 Commercial Boulevard

7. C#:13-1071 – 107 Commercial Boulevard

IV. NEW BUSINESS - CODE CASES

ITEM #IV.13

***TAKEN OUT OF SEQUENCE**

Case #: 13050019

Property Owner: Tropic Ranch Inc.

Address/Folio: 4560 El Mar Drive

Code Section(s): Florida Building Code Section 105 Section 105.1; Section 109.6 Section 110.15

Town Attorney Gabriel understood a motion would be presented by the respondent, a copy of which he had yet to receive. The Town objected to any motion for continuance, noting the fact that the legal counsel representing the owner was recently hired was immaterial, as the subject violations existed for a long time.

Michelle Klymko, legal counsel for the property owner, indicated this was the first time the subject violations came before the Special Magistrate; the violations were dated May 29, 2013, and this was the first hearing. She provided a letter dated June 11, 2013 that was sent to Assistant Town Manager Bentley outlining the plans for the property and the timeframe in which the work would be finished; she submitted a copy of the letter for the record. The property was in bankruptcy, and there were certain approvals the bankruptcy court had to grant to the reorganization officer to allow the owners to formulate a plan and present it to the Town. She stated the property owners were asking for the matter to be moved to the July code meeting to allow her to meet with the parties concerned to resolve the situation.

Town Attorney Gabriel commented the bankruptcy counsel asked the Town to stay the proceedings related to the subject property, and the Town refused based upon the health and safety concerns; there was no basis for staying the matter, so the Town wished the Special Magistrate to proceed accordingly.

The Special Magistrate sought confirmation there was no bankruptcy stay order in place.

Town Attorney Gabriel answered correct.

The Special Magistrate denied the requested motion to continue the subject proceeding.

Ms. Klymko asked for the existing life safety issues to be identified, as she saw none in the backup.

Officer Tuchette Torres said there were already liens running on the subject property in reference to those violations. She reviewed the details of the subject case as set forth in the backup, noting the following violations: a structural permit was pulled, and there was a 40-year inspection to be complied with. On June 4, 2013, she took pictures of the property that accurately depicted its current condition, and asked that they be entered into evidence. She submitted as evidence a copy of the Building Safety Inspection Report, and a letter on the 40-year inspection in summary.

The Special Magistrate accepted the evidence noted above as Composite Exhibit for the Town.

Building Official Jack Morrell indicated, after the building inspection was conducted, a meeting was held with the representatives for the property owner and the Town, as detailed in the backup. In that meeting, the owner's representatives agreed: to submit a letter by June 12, 2013, outlining the plan of action to bring the property into compliance, to immediately secure the site by applying for a fence permit, shut off the gas and electric supply, and secure the pool, which could not be maintained. To his knowledge, none of these had been done to date.

Fire Marshal Steve Paine explained on June 5, 2013, he met Rachel Sampson, the property owner's representative, at the property, and they contacted Florida Power & Light (FPL) and the gas company to come out. FPL secured the gas at the meters and disconnected the service at the top of the transformer, as the conditions of the wires made them reluctant to disconnect the meters. He indicated once the owner hired a licensed electrician and made some of the conditions safe, they could secure a permit and have the electricity turned on temporarily.

The Special Magistrate asked if the pool was easily accessible by the public.

Officer T. Torres replied they would have to walk through the hotel to get to the pool, and the building official already instructed the owner to put a chain-linked fence around the property. The pool area could be accessed from the beach by jumping over the existing fence. The Town sought compliance in seven days.

Town Attorney Gabriel affirmed this to be the Town's request, along with an administrative fee of \$250.

Ms. Klymko requested that time of the violation commence on June 4, 2013, the date photographs of the property were first taken by code staff, rather than May 29, when the violations were first cited. The allowed 14 days to come into compliance meant the property would be out of compliance after June 18. She pointed out the letter requested by Town staff was timely submitted on June 11, 2013, which she requested be marked as an exhibit for the respondent. With regard to making the site secure and the restoration of temporary utilities, the proposed date by which that should be done was June 26, 2013. There was already a six-foot chain-linked fence around the property that was installed on a prior permit that had expired, and by June 26, they would acquire an after-the-fact permit for that fence. She felt this addressed the safety issue of the public accessing the property.

Officer T. Torres questioned the last time Ms. Klymko visited the property, as the fence was no longer in place. There was no date stamp on the photograph submitted by the property owner's representative. She explained the property was cited on May 29, 2013, as that was the date she discovered the structural permit expired, and the pictures she took on June 4 showed what the property looked like, but had nothing to do with when the property was cited.

Ms. Klymko believed the photographs submitted by staff illustrated that the property was cited based on an expired permit and not the pictures that were submitted into evidence to substantiate the violation. She submitted into evidence a photograph of the fence around the property.

The Special Magistrate asked if the fence went around the pool and had a current permit.

Town Attorney Gabriel noted the evidence presented by code staff was that the fence was no longer up and, despite the photographic evidence presented by Ms. Klymko, the violations existed at the time of the June 4 pictures, and staff had difficulty accessing the property due to the owners. The burden was on the property owner to advise the Town when the property was brought into compliance, and if the fence said to be around the property was properly permitted, the obligation was on the property owner to inform staff prior to the present hearing to allow verification. Thus, the Town was asking for the seven-day time period to begin running from June 17, 2013, and not retroactive to the date requested by Ms. Klymko.

Ms. Klymko stressed the Town had no photographic evidence showing the fence was not around the property at the time the citation was issued, and she had a witness who could testify the fence was currently around the property. She asked the Special Magistrate to, therefore, weigh the evidence presented as would be proper. This was a broad violation that involved a building that would be demolished, negating the need for a 40-year inspection. The owners agreed to acquire an after-the-fact permit for the fence currently around the property. Rachel Sampson was no longer involved with the subject property, though she was present the day of the meeting mentioned, and the owner's architect and his team had taken over the project. She asked that the new person handling the property be given a clean slate to work with the Town.

Building Official Morrell commented a permit was not requested from the Town that was illustrated in Ms. Klymko's photograph placed in evidence. Additionally, the original fence permit application issued in 2012 had expired and was for a temporary construction fence in the contemplation of construction in the near future; a chain-linked fence would not comply with the Town's regulations. The citation for the 40-year inspection was issued in 2008, and the completion of that inspection was required in 180 days, and it was now five-years later and no action had been taken.

Town Planner Connors indicated a chain-linked fence that was visible from the right of way was in violation of Town code, and if one were installed on a property, no permit would be approved for it to remain in place.

The Special Magistrate sought clarification on what the Town expected to be corrected by the property owner in seven days.

Town Planner Connors said it needed to be made clear if there would be a total or a spot demolition.

Officer Torres responded the Town wanted the property owner to renew the structural permit within seven days, and that would include demolition.

Mr. Morrell indicated the permits that were applied for in 2012 expired, the property owner failed to meet any of the timelines, and Town staff made this very clear to the owner's representatives in the meeting. The permits they required would be new permits, separate from previous permits applied for, as written by the building code. He said if the owner intended to demolish the building, the Town would issue a demolition permit with the proper application. On the issue of the fence, when he visited the property earlier on June 17, 2013, he saw no chain-linked fence around the front of the property, only a temporary fence seen around trees to guard against damage during construction and not one that could prevent access to the property.

Ms. Klymko mentioned just receiving a transcript dated September 13, 2012, *Co-America v. Tropic Ranch*, a portion of which she read into the record. The case was held before Broward County Judge Tobin-Singer, the presiding judge when the subject fence was discussed. She said the case colloquy indicated the property owner would submit plans to the Town to provide for fence, a barrier metal fence of about six feet high.

The Special Magistrate ruled the fence was to be installed within seven days, one that met the Town code requirements, and if this was not done in the time allotted, a fine of \$250 per would begin to run on the eighth day until the violation was corrected.

Ms. Klymko asked that the property owner be granted seven days to submit the application for whatever they intended doing with the building; that is, demolition, etc.

The Special Magistrate granted the request to submit the permit application in seven days, noting the fine of \$250 per day for the 40-year inspection violation or the failure to secure a permit would begin running on the eighth day. He mentioned seeing the subject address repeatedly, regardless of who the current owner was, and Ms. Klymko represented a number of them. Neither he nor the Town were deceived, as they understood property owners sold properties to people that inherited the previous issues associated with the properties.

ITEM #IV.21

***TAKEN OUT OF SEQUENCE**

Case #: 13040002

Property Owner: Lion Caprice LLC

Address/Folio: 4108 El Mar Drive

Code Section(s): Chapter 6 - Building and Building Regulations Section 6-36(4); Florida Building Code Section 105 Section 105.1, Section 109.6 Section 110.15

Officer Tuchette Torres reviewed the details of the following cases as set forth in the backup, noting: for case 1304002, the following fines began running on May 28, 2013, at \$250 per day, per violation for three violations and, according to the Building Department, the property had been out of compliance 21 days. The fine to date was \$15,750; for case 13040003, the fines began running on May 28, 2013, at \$250 per day per violation for three violations, and the property had been out of compliance for 21 days at a total fine to date of \$15,750.

Fire Marshal Paine mentioned for fire cases #13-1054 and #13-1055, on May 20, 2013, the subject case was brought before the Special Magistrate, and an order was issued for the property to come into compliance or return for a status hearing at the next code meeting. He noted there was extensive renovation work taking place at the property, and though the building remained out of compliance, proper permits had been acquired and the work was proceeding.

The Special Magistrate asked if Mr. Paine believed the work was progressing satisfactorily.

Building Official Morrell remarked the work on the property was progressing, but in the prior week, a delay ensued due to the discovery of issues that were more extensive than contemplated. He was informed by the contractor they would be bringing plans to the Town on rectifying those issues this week. There were other areas of the building in which concrete restoration and interior renovation work could proceed as required by the permit. He stated the permits for both cases were issued on May 28, 2013.

Michelle Klymko, legal representative for the cases, reminded the Special Magistrate they had a deadline by which to obtain the permits, which they complied with, noting the building official acting while Mr. Morrell was away estimated about six weeks were needed to complete the work, and that timeframe had yet to expire. In speaking to Mr. Morrell just prior to the meeting, in light of the recent issues, he indicated the Town would be willing to grant an extension beyond the six weeks to get the work completed. She said the property owner's goal was to reopen the property by Labor Day weekend.

Building Official Morrell thought it unnecessary to grant an extension beyond the original estimated six weeks to complete the work, as it was only one or two areas of the building that required a different set of criteria to make the repairs; work on the rest of the building could move forward as planned.

Ms. Klymko indicated she had a different understanding from her conversation with Mr. Morrell prior to the meeting, but presented for and read into the record a list of work completed thus far, noting the progress of the work had been impeded by inclement weather over the past few weeks. She restated her request for an extension, expressing her wish to submit photographs into the record as evidence of completed work or work in progress.

Town Attorney Gabriel pointed out there was no doubt the work was being performed, and the order issued by the Special Magistrate was complied with. The matter currently before the Special Magistrate was whether or not there was a need for a conference discussion of the costs and expenses to be assessed that Town staff requested at the previous meeting, along with the update on the work on the property. Town staff was not contesting the property owner's efforts to bring the property into compliance, but the bottom line was they still failed to achieve compliance. He was unsure if the timeframe for completion was applicable to all the permits.

The Special Magistrate recalled the property owner was given six weeks by the Town's building official.

Town Attorney Gabriel reminded the Special Magistrate the subject property was the one that Town staff was required to get an administrative warrant to access due to the owner's refusal to allow staff onto the site. He believed once brought into compliance, Town staff would sit with the property owner and reduce and/or abate any violations that might exist, depending on the work done and how it was achieved. At present, the property owner had a history of noncompliance, whether due to weather, failure to secure a permit, construction issues, etc. These hindrances were due to no fault of the Town and due more to owner's failure to rectify the violations in a timely fashion.

The Special Magistrate inquired if Town staff and the owner's representatives had worked out any payment.

Fire Marshal Paine recalled the Special Magistrate directed the owner's legal counsel to contact him, and she indicated she would call to discuss specifically how the dollars were arranged, but he never received a call from her.

Ms. Klymko claimed in the interim she changed law firms and was now with Arnstein & Lehr, and they had yet to have all their files released from Becker & Poliakoff. If the issue of the six-week timeframe was being revisited, she reserved the right to call back the building official standing in for Mr. Morrell, as it would be impossible to get a building permit and complete the work in seven days, and six weeks was the time given by the building official.

Assistant Town Manager Bentley recalled at the previous code meeting, the Special Magistrate awarded time for the owner to secure a permit and then set another timeframe for the work to be completed upon securing the permit.

The Special Magistrate affirmed the timeframe was six weeks to get the permit and seven days to complete the work.

Assistant Town Manager Bentley reminded the Special Magistrate that at the time of the ruling, Town staff objected to additional time being given, as the owner's legal representative had been very successful in shifting the focus on their repeated need for more time to correct the violations. Some of the violations had permits pulled over a year ago and the work had yet to be completed. They were experts at getting fines suspended or holding them in abatement, while they persist in their efforts to do work that never achieved completion.

Ms. Klymko commented the smoke detector permit was the only open permit, which the Town had misplaced. She asked that the ruling of the Special Magistrate from the previous code meeting be upheld.

The Special Magistrate believed that left two more weeks for the work to be completed.

Assistant Town Manager Bentley responded to Ms. Klymko's comments about Town staff losing the smoke detector permit application, stating, to date, Town staff was unable to locate any public records request Ms. Klymko claimed to have made; staff found a public records request filed by Ms. Klymko the date of the last code hearing. They provided her with the information based on that public records request within the same day.

Ms. Klymko clarified the owner made an earlier public record request, and she could present an email from Officer T. Torres in response to that request from the owner that no information was available.

Mr. Morrell believed the smoke alarm permit being discussed was obtained in 2012 and had expired, and the owner had not called the Town for any inspections, so that permit was null and void. A new permit issued on May 28, 2013, was now the permit that authorized the proper installation of the smoke alarms, and though the time it took to install the smoke alarms was determined by the contractor, there was no reason why the alarms could not be installed within the next two weeks. He wished it made clear for the record that the properties located at 4108 and 4110 El Mar Drive were required to furnish a completed 40-year inspection in 2008, and it was now 2013, and the permit the Town reissued in May was the first activity. The owner applied for a permit in 2012 but took no action, and Town staff made comments to that effect in the backup. He believed the permits issued in May 2013 should clear up the remaining

violations, but it depended on how fast the contractor worked, so the owner should closely monitor the progress of the work.

Town Attorney Gabriel remarked on the ongoing adversarial circumstances between the property owner and the Town, and though they were generally on friendly terms, they disagreed as to what actually transpired, and this was part of the problem. The only mechanism the Town felt it had left to move matters forward was the institution of fines, so he respectfully asked that the Special Magistrate order the fines to go forward as requested by Town staff, noting the Town expended \$12,072.35 in total for both cases for Town attorney and Town staff time to bring the administrative warrant process to conclusion.

The Special Magistrate asked if those costs were recoverable.

Town Attorney Gabriel affirmed the costs were recoverable under State Statute and asked that for cases 13040002 and 13040003 that the total cost of \$12,072.35 be divided equally and applied to each case; that is \$6,036.17 would be assessed on each property for the work by the Town to secure the **Unclear 44:03**. At an appropriate time, the Town and the property owner would discuss a possible abatement of the violations, whatever they were at that time.

Ms. Klymko reiterated the fines had not begun to run, as the six-week allotted time period had not expired. In relation to the attorneys' fees, she assumed full responsibility for those, as in changing law firms, she ran a conflict check and found there was an issue with continuing to represent the subject property owner. However, she found the Town attorney's charge of 40 hours to write a standard motion extremely excessive, noting she was present at the hearing and the judge signed the order without a hearing or any testimony. Therefore, she requested a significant reduction in the attorney's fees requested by Mr. Gabriel on the Town's behalf, and that they not be assessed until the six-week time period expired and fines began to run if violations remained.

The Special Magistrate commented that in his 40 years as a local government attorney, he had never encountered the need to get an administrative warrant in such matters. He granted the requested costs of \$12,072.35 to be divided into equal amounts of \$6,036.17 and applied to each case #13040002 and #13040003. The property owner's representatives were urged to meet with Town Attorney Gabriel to work out billing differences, as he was sure they could come to an accord that was fair and reasonable for both parties. He ordered a timeframe of ten days, commencing from June 17, 2013, to finish the work to bring the properties into compliance; if not achieved, a fine of \$250 per day, per violation would begin to run. Though he understood the time might be insufficient, he retained jurisdiction, and after first conferring with Town representatives, he had the ability to reduce or abate the fine. He emphasized the six-week time period was being reduced; that is, as of June 17, 2013, the remaining two weeks of the six week period was being reduced to ten days.

Ms. Klymko wished the record to be clear, asking the Special Magistrate if he was accepting Town Attorney Gabriel's interpretation of the State Statute.

The Special Magistrate affirmed he was.

* * *

Mayor Roseann Minnet spoke in general on the properties currently out of compliance with the Town's code, particularly the distressed properties and the Town's hotel industry. They had a major economic impact on such a small community, and responsible property ownership maintenance was at the heart of neighborhood stability. She acknowledged property ownership conferred important rights, but, equally important, it conferred responsibilities and obligations, and she failed to see that the owners of these properties with violations had an understanding of what those responsibilities and obligations were. As they were not maintaining their properties according to Town code requirements, they were having a great impact on the health and welfare of the Town's people, as well as on the economy. She urged the Special Magistrate to encourage these private owners with code violations to use their properties productively, and if compliance could not be achieved, she asked the Special Magistrate to enforce the rules, including listening to the recommendations of Town staff. The reduction of fine violations should not be allowed, particularly in the case of multiple violations and lengthy noncompliance; it might seem as though some violations were just arising, but they were years old, and this should be kept in mind. Mayor Minnet felt pleased to hear the Special Magistrate asking questions to get a better understanding of the history of the cases, thanking him for listening to Town staff's comments on the cases in order to establish their true timelines.

The Special Magistrate concurred as to the need to understand the history of the cases, as he was disturbed to discover that in some persisting cases the new owners were actually the same as the previous owners. Neither the Town nor he were going to put up with such tactics, and he took such matters very seriously.

Mayor Minnet remarked on her involvement with code compliance and her work with the Town attorneys for some six years, and they were willing to work with the property owner to get the violations resolved. She received phone calls every day from residents and businesses asking for updates on these properties that were out of compliance.

ITEM #IV.22

***TAKEN OUT OF SEQUENCE**

Case #: 13040003

Property Owner: Lion Caprice LLC

Address/Folio: 4110 El Mar Drive

Code Section(s): Chapter 6 - Building and Building Regulations Section 6-36(1)(a); Florida Building Code Section 105 Section 105.1, Section 109.6 Section 110.15

See item #IV.21 for the discussion and ruling.

ITEM #IV.23

***TAKEN OUT OF SEQUENCE**

Case #: 13040016

Property Owner: Ocean 4660 LLC

Address/Folio: 4660 N Ocean Drive

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

Officer Tuchette Torres discussed case #13040016 and fire cases #13-1057 and #13-1058, noting the fines related to the three cases began running on May 28, 2013, at \$250 per day; to date, they remained out of compliance for 21 days for a total fine of \$5,250, plus a \$250 administrative fee.

Town Planner Connors reviewed the summary of the subject cases provided in the backup, including an overview of the ongoing actions that took place between the last code hearing to the present hearing. For the violations on the property, the Special Magistrate gave the property owner seven days to comply; that is, seven days to acquire after-the-fact building permits and final inspections, and the Special Magistrate asked Town staff to give a status update at the June 2013 code hearing.

Fire Marshal Paine added, in reference to cases #13-1058 and #13-1057, the only outstanding violations were the permit issues on the fire alarm monitoring equipment, as all other violations came into compliance in a timely manner. The property owners had only to resolve their differences and call in the inspections, as if the equipment was in place and working, but the violation remained if the Town did no final test/inspection.

Ms. Klymko wished it made clear the tags on the last violation did not expire until May 15, and she felt this should not have been grouped with the other violations. The open permits were timely obtained, and in reviewing the varying dates provided by staff in the backup, she could not agree with all their timelines, but she concurred with the outstanding balance due, with the understanding once the property went into bankruptcy court, no money could be spent. The monies owed to the Town were one of the first items they were asking to have paid by the bankruptcy court, so these permits could be closed out. She understood the hearing before the bankruptcy court was early July, and as soon as the ruling to pay was given by the court, the Town would be paid, and she asked that the property owner be given some leeway on the timeframe by which to pay the fine.

Assistant Town Manager Bentley mentioned attending the bankruptcy hearing some two weeks prior, and the court approved the submitted budget, including operation monies. The Court acted quickly in appointing a chief restructuring officer (CRO), so the subject property could continue operating and remain open to pay its bills. His understanding was very different from that of Ms. Klymko, as she did not attend that hearing. It was interesting that at the hearing, the same individual who appeared before the Special Magistrate at the last code hearing claiming to be the new owner of the LLC had his counsel testify that he had no ownership interest in the subject property.

The Special Magistrate sought confirmation that the individual of whom Mr. Bentley spoke testified under oath at the May 2013 code hearing that he was the new property owner.

Assistant Town Manager Bentley answered yes, reiterating that at the bankruptcy hearing, his lawyer stated he had no ownership interest in the subject property..

The Special Magistrate asked Town staff to look into a possible perjury charge in regard to the gentleman who spoke at the hearing under oath, claiming he was the owner of the subject property when he was not.

Assistant Town Manager Bentley replied Town staff would refer the matter to the Town attorney accordingly.

Ms. Klymko commented an operating budget differed from the subject fine, as the fine was not a part of the day-to-day operations.

Town Attorney Gabriel responded the bottom line was the property remained out of compliance, and if that state persists, the daily fine of \$250 should continue to accrue, despite all the side issues the property owner's representatives continued to present as justifications for failure to comply and pay fines.

Ms. Klymko expressed concern as to the fairness of the procedure, as when the issues came back before the Special Magistrate, there would be no discussion, and the Magistrate was the same person making the ruling.

The Special Magistrate pointed out the word "justifiably" applied, as it was the same offending parties over and over again, and they did not have to live with the daily impact of their behavior as the Town did. Part of his job was to break such cycles, and Ms. Klymko was welcome to go to circuit court and take whatever steps she felt warranted. He was not being arbitrary, capricious, or any other legal term Ms. Klymko wished to choose, as his aim was to get the property owner to respond in an effort to bring the property into compliance. Being dilatory would no longer work for the subject property owner, whose location in Michigan removed him from the impact of his neglect of the subject property that was negatively impacting the Town and its citizens, and he hoped these views would be clearly communicated to the owner by their representatives. He ruled that the fines would continue to run until compliance was met, after which the owner could have discussions with the Town, and if a lien was imposed by that time, he would have lost jurisdiction. The Special Magistrate said he retained jurisdiction in an effort to work with the property owners, yet this was the third time Mayor Minnet was attending the code hearings to defend the cause of those she served and monitor the progress on these persisting violations.

Ms. Klymko asked for a clear reading of the order, in light of the tag issue she mentioned that should not have been on the last violation to ensure the calculation was correct.

The Special Magistrate urged Ms. Klymko to work with Town staff, and if the evidence was off by different dates and Town staff agreed, he would amend the order to make sure the information was clear and accurate.

Ms. Klymko commented on the remaining issue of the six weeks not being included in the order issued at the last hearing.

The Special Magistrate reiterated he amended that in the present meeting, amending the remainder of the six weeks to come into compliance to ten days.

Ms. Klymko stressed the ruling of six weeks was never included in the Special Magistrate's prior order, nor was the ruling ever reduced to paper, and this was a problem, as it made it hard to follow. She asked that the information be included in writing in the present discussion.

A female speaker 1:02:50 sought confirmation that the fines would continue to run at \$250 per day per violation.

The Special Magistrate answered correct, and an administration fee of \$250 would be assessed.

Town Attorney Gabriel noted some violations had not been presented for a final signature and, at that time, the property owner's counsel would have an opportunity review, comment, and ask for clarification.

Assistant Town Manager Bentley remarked, as there were questions regarding the property's ownership, he thought it would be appropriate for Ms. Klymko to indicate who the actual property owners currently were.

Ms. Klymko replied she was retained as counsel the afternoon of June 17, 2013, by the company RKJ Hotel Management, LLC, located in Sherman Oaks, California, and they represented to her that, as the appointed CRO, they had permission to take action on the subject property as ruled by the bankruptcy court. She had not been specifically retained by either the 4660 LLC or Tropical Ranch, Inc., and her retainer was very specific.

The Special Magistrate asked the name of the live person Ms. Klymko communicated with.

Ms. Klymko responded Rick Barreca.

The Special Magistrate found the activities of shifting from one LLC to another corporation to another partnership unacceptable.

Ms. Klymko understood the Special Magistrate's reservations, noting she had not seen any of the bankruptcy orders, but she acknowledged the appointment of the CRO by the bankruptcy court and the role a CRO has in the process. She would get copies of the bankruptcy orders to add to the files of the subject cases.

ITEM #IV.10

***TAKEN OUT OF SEQUENCE**

Case #: 13050008

Property Owner: Danielle Johnson

Address/Folio: 1724 Bel-Air Avenue

Code Section(s): Chapter 6 - Building and Building Regulations Section 6-38(1), 40(a)

Officer Tuchette Torres reviewed the details of the subject case as set forth in the backup, noting the following violations: junk and trash causing obnoxious odor, and junk and trash located on the north side of the property. On May 13, 2013, she took photographs of the property to accurately depict the property's condition at that time. She indicated the property came into compliance on June 11, 2013, and she requested the assessment of an administrative fee of \$250. She submitted the pictures along with an email from one of the citizens living next door to the property into evidence, reading the letter for the record that stated the resident and surrounding neighbors were fed up with the unacceptable state of the property at 1724 Bel-Air Avenue that persisted for several years with no apparent resolution. The letter elaborated on the unsightly and unhealthy conditions neighbors were contending with, including trash, unkempt landscaping, filthy conditions, noise, a variety of animals, and tenants of questionable character and practices engaged in at all hours of the night, all of which were reported to law and code enforcement. She said the author of the letter asked the Special Magistrate for a ruling representative of the residents' position. Along with the photographs and email, Officer T. Torres submitted a chart she created for the property showing the outstanding violations and open liens. She indicated neither the property owner nor a representative was present, and she had for further submission into evidence a copy of a warranty deed that showed some fraudulent activity, stating it was unlikely that the property owner would respond to any notice sent by the Town. In reference to the animals, she could attest to their presence, as she went with Broward Animal Control to the subject home to physically remove abused animals. She requested the issuance of a final order and the imposition of an administrative fee of \$250, so if the property went out of compliance again, the owner could be cited as a repeat violator.

The Special Magistrate wished to confirm that, as a repeat violator, they could be fined \$500 per day.

Officer T. Torres answered yes, noting an adjacent neighbor wished to speak on the subject case.

Stephen Smith mentioned for nine years, 365 days of each year, the neighbors went through police, fire, EMT and other emergency vehicles being summoned to the subject property in the early hours of the morning, along with a wide variety of vehicles going to and from the property. He confirmed the unacceptable conditions read by Officer T. Torres from the email submitted into evidence, including the presence of pit bulls locked in the garage, for which he called the police at 3:30 a.m., as no one had been in the house for about a week. Due to circumstances, the animals would not have been removed for a few days, and he called on Mayor Minnet to help have them removed right away. Mr. Smith noted he was one of the few permanent residents in their neighborhood, and his backyard faced the front yard of the subject property, so they witnessed all the activities taking place. He said the amount of time, money and energy expended by the Town to deal with the activities taking place did not fit the character of the neighborhood, and it was time for the Town to enforce compliance in a more effective manner.

The Special Magistrate asked if there were any tenants in residence at the 1724 Bel-Air Avenue property.

Mr. Smith answered yes, and the frequency of the turnover of tenants ranged from one month to five months.

The Special Magistrate found the subject situation unacceptable, asking if code staff had been able to establish contact with the property owner at any time.

Officer T. Torres replied no contact had been made; the cases existed prior to her employment with the City, and as of June 17, 2013, they owed over \$700,000. She hoped the Town could implement a program, whereby code administration could do an authorization to foreclose to combat such cases. She mentioned speaking to the present tenant, who informed her he paid to reside at the property for eight months, and she instructed them to clean up the trash on the property. However, she believed by next month she would be back before the Special Magistrate for a repeat violation of overgrown grass, etc. The Town needed to devise a mechanism, whereby the Town could show it could take the property, and this might motivate owners to bring their properties into compliance and maintain them accordingly. She wondered if staff could recommend nuisance abatement for occupied properties, as that recommendation was normally reserved for vacant property.

The Special Magistrate said the State Statutes allowed, once it became lien that was recorded for a minimum of 60 days, the matter could go to the Town Commission for a direction to foreclose. On the specific property, nine years was too long.

Mayor Minnet concurred, stating the subject property and one other property fell within the Town's short-term rentals, and it was critical that codes were enforced in the Town's neighborhoods, as there was some decline in them. She commented when the short-term ordinance was enacted, she wished it to go forward, as many of the owners approached her six years ago and asked for her help to establish a short-term rental ordinance, so they could retain ownership of their properties and prevent them going into foreclosure. However, she later discovered many of these owners resided outside the Town and did not abide by the ordinance written for them; the aim of the ordinance was to ensure the surrounding residents would not be affected, but the end result was that they were negatively impacted. She asked the Special Magistrate to recognize the rights of many of the homeowners affected by such persistent, adverse conditions, urging him not to reduce the fines and impose the strictest penalty possible, and order such property owners to bring their properties into compliance and keep them that way.

The Special Magistrate issued a final order and ruled that an administrative fee of \$250 was to be paid.

ITEM #IV.1

***TAKEN OUT OF SEQUENCE**

Case #: 13040018 - Certification of Lien

Property Owner: Natalia Alvarado

Address/Folio: 3220 S Terra Mar Drive

Code Section(s): Chapter 30 - Unified Land Development Regulations Section 30-327(a), (c), (d)

Officer Tuchette Torres reviewed the details of the subject case as set forth in the backup, noting the following violations: no business tax receipt (BTR) or state license to obtain a vacation rental license, the property was advertised as being rented out daily or less than the set number of required dates for a vacation rental, and there were no vacation licenses to rent out the property as a vacation rental. As of June 17, 2013, the property remained noncompliant, and she submitted evidence of an email from a neighbor on the short-term rental practices of over 60 homes in their neighborhood, along with questions on the relevant code governing such activity and why it was not being enforced. She had an email from the property owner asking if there was a state license for the vacation rental, and Town staff responded in reference to the subject property owner stating he was trying to get his state license. Officer Tuchette Torres felt the biggest issue with Tropical Vacation Rental was on March 21, 2013, the backup showed a listed location of the property, and that it could be rented for a week, days and weekends, and this advertisement could be found on a website on April 22 and June 12, 2013. She said the owner's husband informed Town staff on June 12, 2013, that he was no longer renting the home and had applied for the vacation rental license, but that license application could not go forward without a state license. The owner informed her the advertisement had been removed from the website, but the website still showed the property was still being advertised as a rental, and usually for less than seven days. She requested the imposition of an administrative fee of \$250, as well as the

issuance of a final order, as it was still noncompliant; she submitted all her paperwork into evidence, noting there were three violations, so the fines should be per day, per violation.

The Special Magistrate ruled the imposition of an administrative fee of \$250, and a fine of \$250 per day, per violation. He directed Officer T. Torres to have Town staff correspond with the owner in writing on Town letterhead, instructing them to cease and desist their vacation rental practices or risk being taken to court.

ITEM #IV.8

***TAKEN OUT OF SEQUENCE**

Case #: 13050006

Property Owner: 253 Commercial LLC

Address/Folio: 253 E Commercial Boulevard

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

Officer Tuchette Torres reviewed the details of the subject case as set forth in the backup, noting the following violations: there was a tankless heater installed without a permit, and on May 1, 2013, she took pictures that accurately depicted the condition of the property. She requested the imposition of an administrative fee of \$150.

Jade Fischer, property owner representative, stated the subject property was owned by a real estate firm that owned properties with commercial and retail tenants. The heater was present at the property prior to their acquisition, and they had no reason to believe it was installed without a permit. Along with the heater violation, there were other violations issued and subsequently complied with, and only the heater violation was outstanding. She said, initially, they thought they needed to hire an electrician to get the permit, and she had documentation to illustrate those efforts, but Town staff later told her it was a plumber not an electrician that was needed to apply for the permit. They recommenced the process of hiring a professional to apply for the permit, noting she communicated their difficulties to Officer T. Torres. As of June 17, 2013, they hired a licensed, professional plumber to apply for the required permit.

Officer Tuchette Torres felt, as this was an after-the-fact permit, two weeks was sufficient to get the necessary permit.

The Special Magistrate concurred, stating if the permit was not acquired in two weeks, the fine would begin running at \$100 per day, along with the imposition of an administrative fee of \$150.

ITEM #IV.16

***TAKEN OUT OF SEQUENCE**

Case #: 13030014 - Certification of Lien

Property Owner: 4221 Bougainvilla LLC

Address/Folio: 4221 Bougainvilla Drive

Code Section(s): Chapter 12 - Licenses Section 12-2(d)(1)

Officer Tuchette Torres reviewed the details of the subject case as set forth in the backup, noting the following violations: there was no BTR to rent the property. Though Mr. Shabat applied for the BTR, the Town's application process required an inspection by the fire marshal and code staff, and other code violations were found and cited during that inspection that had yet to be complied with and could appear before the Special Magistrate at the next code hearing. She requested a final order to move the process along, as well as a \$250 administrative fee.

Mr. Shabat (sp), property owner representative, explained on June 18, 2013, he would submit all the permit applications for building, plumbing and electrical, and as soon as those were issued by the Town, he would start work that he hoped would be completed and the property brought into compliance by the July 15, 2013, code hearing.

The Special Magistrate ruled that a fine of \$100 per day would be imposed if the work on the property was not completed within 20 days from June 17, 2013. If the owner found a need to go past that time, he should communicate with Officer T. Torres and explain why more time was needed.

Officer T. Torres explained there was an illegal unit on the property that was an office turned into a studio apartment; it was ten units, and the owner applied for 11 units. There was someone in residence, but it was unsafe, as there were no smoke detectors or alternate exit other than the door to the laundry room. Thus, the owner needed to get a permit to change the unit into an apartment up to Town code or to turn the room back into an office. She was unsure how long the conversion work would take, and suggested setting the timeframe for the completion of the work to the time of the next code hearing on July 15, 2013.

ITEM #IV.9

***TAKEN OUT OF SEQUENCE**

Case #: 13050007

Property Owner: Stephen T. Loguercio

Address/Folio: 4552 N Ocean Drive

Code Section(s): Chapter 6 - Building and Building Regulations Section 6-36(1)(a), 41(a)(12), (5)

Officer Tuchette Torres reviewed the details of the subject case as set forth in the backup, noting the following violations: the doors were in a state of disrepair, an inoperable El Camino with an expired tag of May 2012 was on the property, miscellaneous outside storage, and cracked pavers on the north side of the property. On June 17, 2013, she took pictures of the property and they accurately depicted the current conditions of the property, and she wished them accepted into evidence. She was not requesting an administrative fee, as there had been death and illness in the owner's family. The reason for bringing the subject matter forward was, though there had been some progress in addressing the various violations, she could not delay its being heard by the Special Magistrate, as the situation had persisted since January 2013.

Stephen Loguercio, owner, indicated they were in the process of cleaning up the property, and they expected to bring the property into compliance by the first week of July. He requested additional time to remove the El Camino, as the car belonged to his son who passed away in 2012, and they were trying to move the car elsewhere or sell it.

Officer Tuchette Torres recommended 60 days to get the tag current or remove the car from the property, in consideration of his son's recent death and his wife's current illness. The bulk trash should be removed by July 5, as that was the next bulk pickup date. She inquired into how the cracked pavers would be addressed.

Mr. Loguercio replied he would have them properly patched.

The Special Magistrate ruled the property owner had 60 days from June 17, 2013, to bring everything into compliance, after which a fine of \$100 per day, per violation would begin to run, and no administrative fee would be assessed.

ITEM #IV.24

***TAKEN OUT OF SEQUENCE**

Case #: 12120013

Property Owner: Lauderdale Resorts LLC

Address/Folio: 4605 N Ocean Drive

Code Section(s):

Officer Tuchette Torres reviewed cases #12120013 and 12120014 under one presentation, noting for both cases on May 21, 2013, fines began running at \$100 per day per violation, and the property came into compliance on May 31, 2013, accruing a total fine of \$2,200, and the administrative cost was already paid. The owner was present to ask the Special Magistrate for an abatement of the fine, to which she did not object, as the owner applied for and received the permit in a timely manner, but the work to bring the property into compliance took an additional 11 days.

Angelo Bartolome, the owner's representative, echoed the request for an abatement of the abovementioned fine.

Officer Tuchette Torres recalled the Special Magistrate gave the owner 90 days to come into compliance and they took an additional 11 days to do so, so she was unsure if she agreed with an abatement of the total fine. She was aware of the fire marshal having an open case that would be presented at the next code hearing.

The Special Magistrate ordered a reduction of each fine of \$1,100 to \$250, giving a total fine for both properties of \$500.00.

ITEM #IV.25

***TAKEN OUT OF SEQUENCE**

Case #: 12120014

Property Owner: Lauderdale Resorts LLC

Address/Folio: 4609 N Ocean Drive

Code Section(s):

See item #IV.24 for the discussion and ruling.

ITEM #IV.18

***TAKEN OUT OF SEQUENCE**

Case #: 13020025 - Certification of Lien

Property Owner: Zirlei Bassoli

Address/Folio: 1840 Bel-Air Avenue

Code Section(s): Chapter 30 - Unified Land Development Regulations Section 30-211(a)

Officer Tuchette Torres commented the fines for the subject violation began running on April 16, 2013, at \$150 per day, and the property remained out of compliance to date for 63 days, for a total fine of \$9,450, plus an administrative fee of \$150. The matter was continued from the last code hearing due to Ms. Bassoli having to go to Brazil; the property came into compliance, getting the doorway into that unit blocked off by the County that was approved but not for the use she intended. Property owners were not permitted to turn a single family home into a duplex. Officer Tuchette Torres believed the permit was either never issued or rejected, as Ms. Bassoli already had an outstanding code violation. She wished the aforementioned fines imposed accordingly.

Zirlei Bassoli, owner, stated she was unable to rectify the violation due to financial problems, apologizing for her property remaining out of compliance.

Officer Tuchette Torres explained the procedure at the Building Department was if a property owner had an outstanding building permit for work already done, the Department could not issue a permit for other work until the prior permit was closed. In such instances, as with the subject violation, there was no solution other than to impose the fines or direct the property owner to get the second permit and tie it to the first in order to get the necessary work done to bring the property in compliance.

Ms. Bassoli reiterated her financial inability to fix the property as required by the Town, and she anticipated the house going to the bank.

The Special Magistrate asked if the subject property was homesteaded.

Ms. Bassoli answered yes.

Officer Tuchette Torres restated her request to impose the fines as stated in her presentation of the item. In a letter to the previous building inspector some three years prior, Ms. Bassoli said the property would go into bankruptcy, and this had yet to happen.

The Special Magistrate ordered the certification of the lien in the amount of \$9,450, along with an administrative fee of \$150.

Officer Tuchette Torres explained to Ms. Bassoli this meant the Town would place a lien against her property for the above amount, and Ms. Bassoli had to go before the Commission for any abatement once the property complied.

ITEM #IV.14

***TAKEN OUT OF SEQUENCE**

Case #: 13050022

Property Owner: Marcello Jaspan

Address/Folio: 1800 S Ocean Boulevard #606

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

Officer Mike Torres reviewed the details of the subject case as set forth in the backup, noting the following violations: extensive remodeling had been done to the subject apartment, including structural, mechanical, plumbing and electrical renovations with no permits. On May 9, 2013, he took photographs during the course of his investigation, and they accurately depicted the condition of the property and, to date, none of the violations were complied with. He submitted the photographs as evidence on the Town's behalf, stating the initial complaint came from the management company based on complaints by neighbors of noises coming from the apartment that sounded as though work was being done. The management company said no one from the apartment approached the association to request permission to do any renovation work, and Town staff's investigation revealed extensive renovations were taking place as noted above, and the owners claimed to have permit applications ready for submission.

Marcello Jaspan, owner, remarked the subject property was a family project, which he purchased as a vacation renovation they would eventually sell. His parents were in charge of the project, and they had not done a good job. The building's management was "tricky" to work with, as he knew his parents had spoken with the building association. This was the first "fixer upper" his parents had attempted, so he apologized for any problems their activities caused. He was not involved in the project, but he was the property owner, and a qualified contractor had been hired to secure the necessary permits, and they had the permit applications ready for submission to the Town.

Juan Bienueva (sp), the contractor with D&G Construction, affirmed he had the necessary permit applications for work on Mr. Jaspan's property and would submit them to the Town on June 18, 2013.

The Special Magistrate ordered the owner to submit the permit applications as stated above, and directed them to complete the work in 30 days or return at the next code hearing on July 15, 2013, for a status update if the work was incomplete. He added if Town staff was not satisfied that substantial progress had been made, a fine of \$200 per day would be imposed, along with an administrative fee of \$150.

ITEM #IV.2

***TAKEN OUT OF SEQUENCE**

Case #: 13040020

Property Owner: John Pryor

Address/Folio: 4633 Bougainvillea Drive

Code Section(s): Chapter 30 - Unified Land Development Regulations Section 30-317 (g); Florida Building

Code Section 105 Section 105.1

Officer Tuchette Torres commented the subject property was inspected in November 2012 in reference to a tenant residing there at the time, and she met with the property owner, the fire marshal and two police officers, and gave him a courtesy notice of all the violations. As the Town was doing work on that street in February 2013, she repeatedly gave the property owner extensions and, at present, the owner was down to two violations: the parking lot had faded stripes, and there was a canopy erected without a permit. She requested an administrative cost of \$150, and on June 17, 2013, she took pictures of the property to depict the current conditions, which she submitted into evidence. It was possible that the owner would need a permit to restripe the parking lot, so she suggested 21 days for compliance.

The Special Magistrate observed the property owner had been making significant progress in bringing the property into compliance. He ordered the imposition of an administrative fee of \$150, as well as a fine of \$150 per day, per violation that would begin to run if the work was not completed in 21 days starting from June 17, 2013.

ITEM #IV.3

***TAKEN OUT OF SEQUENCE**

Case #: 13040021

Property Owner: Barbara A Metroulas

Address/Folio: 5100 N Ocean Boulevard #808

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

Officer Tuchette Torres reviewed the details of the subject case as set forth in the backup, noting the following violations: there was demolition work being done in the kitchen without a permit, as all the cabinetry and sinks were removed in preparation for remodeling. She had contact with the owner to take pictures that truly depicted the condition of the property on April 18, 2013, adding this was a situation whereby an elderly woman hired a cabinet company that sought to extort her, and her niece had taken over and was trying to get the proper permits. She was not requesting an administrative cost, as it appeared the owner was truly taken advantage of, but it was explained to the owner that she needed to at least acquire a demolition permit and go from there. The owner contacted the Building Department and was currently working with them to discover what she needed to do, and she hired some contractors. She suggested giving the owner until the next code hearing on July 15, 2013, to bring the property into compliance; if not brought into compliance, a fine of \$150 per day would be assessed.

The Special Magistrate said so ordered.

ITEM #IV.4

***TAKEN OUT OF SEQUENCE**

Case #: 13040022 - Certification of Lien

Property Owner: Richard Barrie Jr. Inc.

Address/Folio: 230 Basin Drive

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

Officer Tuchette Torres requested a continuance of the subject case to the August 2013 code hearing. She was in contact with the owners, and they would submit the permit applications for the dock.

The Special Magistrate ordered a continuance of cases #13040022, #13020030, and #13020031 to the August 19, 2013, code hearing, as requested by staff.

ITEM #IV.19

***TAKEN OUT OF SEQUENCE**

Case #: 13020030

Property Owner: Richard Barrie Jr. Inc.

Address/Folio: 230 Basin Drive

Code Section(s): Chapter 6 - Building and Building Regulations Section 6-37(1)(a)

See item #IV.4 for the discussion and ruling.

ITEM #IV.20

***TAKEN OUT OF SEQUENCE**

Case #: 13020031

Property Owner: Richard Barrie Jr. Inc.

Address/Folio: 230 Basin Drive

Code Section(s): Chapter 6 - Building and Building Regulations Section 6-37(1)(a)

See item #IV.4 for the discussion and ruling.

ITEM #IV.5

***TAKEN OUT OF SEQUENCE**

Case #: 13050001

Property Owner: Fisherman's Pier Inc.

Address/Folio: 4400 N Ocean Drive

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

Officer Tuchette Torres requested a continuance of the subject case to the August 2013 code hearing. The owners submitted the necessary paperwork for the air conditioning unit.

The Special Magistrate ordered a continuance, as requested by staff, to the August 19, 2013, code hearing.

ITEM #IV.6

***TAKEN OUT OF SEQUENCE**

Case #: 13050004 - Certification of Lien

Property Owner: The Caribe Inc. Of Broward County

Address/Folio: 4050 N. Ocean Dr. (Common Areas)

Code Section(s): Chapter 30 - Unified Land Development Regulations Section 30-313(0)(1)

Officer Tuchette Torres requested a continuance of the subject case to the August 2013 code hearing, noting orders for the turtle lights were coming in; this was an elderly community, and they were doing a little bit at a time

The Special Magistrate ordered a continuance, as requested by staff, to the August 19, 2013, code hearing.

ITEM #IV.11

***TAKEN OUT OF SEQUENCE**

Case #: 13050014 - Certification of Lien

Property Owner: Yukon Re: Investments

Address/Folio: 4557 N Ocean Drive

Code Section(s): Chapter 6 - Building and Building Regulations Section 6-37(1)(a)

ITEM #V.3

***TAKEN OUT OF SEQUENCE**

Case #: 13-1057

Property Owner: Ocean 4660 LLC

Address/Folio: 4660 El Mar Drive

Code Section(s): N.F.P.A. 72.4.4.1.4.2.1,; F.B.C. 105.1

See item #IV.23 for the discussion and ruling.

ITEM #V.4

***TAKEN OUT OF SEQUENCE**

Case #: 13-1058

Property Owner: Ocean 4660 LLC

Address/Folio: 4660 North Ocean Drive

Code Section(s): N.F.P.A. 25.52.5; FBC 105.1

See item #IV.23 for the discussion and ruling.

VI. ADJOURNMENT

Not having any additional business to be heard, Special Magistrate Tom Ansbro adjourned the hearing on June 17, 2013.

APPROVED BY:

Special Magistrate Tom Ansbro

ATTEST:

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