

APPROVED

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

*Town Commission Meeting Room
Thursday, May 25, 2017 at 5:00 PM*

I. CALL TO ORDER, SPECIAL MAGISTRATE TOM ANSBRO

Special Magistrate Tom Ansbro called the hearing to order at 5:05p.m. on Thursday, May 25, 2017. Town Attorney Alan Gabriel, Building Official Jack Morrell, Code Compliance Inspector Bethany Banyas, and Code Compliance Inspector June Peart were present as well as Special Magistrate Clerk Jhanelle Campbell to record the minutes.

II. SWEARING OF WITNESSES

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

III. OPENING STATEMENT

The Special Magistrate explained the procedures for the Hearing for code compliance.

IV. PUBLIC COMMENTS

The Special Magistrate spoke about public comments at this time or when a case was called. No one from the public spoke now.

V. CODE CASES

Special Magistrate Clerk Jhanelle Campbell called the first case.

NEW BUSINESS

ITEM #V.12

***TAKEN OUT OF SEQUENCE**

Case #: 17040009 – Citizen Complaints

Property Owner: Charlton, Mary Frances

Address/Folio: 1948 W Terra Mar Drive

Code Section(s): Chapter 30 – Unified Land Development Regulations

Section 30-477(a)

Chapter 6 – Building and Building Regulations Section 6-41(a)(7)

Inspector Banyas testified that Notice of Violation and Notice of Hearing was mailed on April 25, 2017 regarding landscape maintenance and infestation on the property. The landscape has come into compliance. She said that it is her understanding that neighbors are here tonight to testify about infestation. The Town does not have any immediate knowledge of that. She answered the Special Magistrate that she has been told about rats, raccoons and possums.

Mary Charlton testified that her family is one of the longest residing on Terra Mar Island. They have been there 49 years. She said that wildlife is ubiquitous to the island. She has a chain link fence but most residents have privacy fences and you cannot see what is going on in their

yard. Ms. Charlton said these critters are all over but in light of the accusation, she signed a contract on May 22, 2017 with PIP, Inc., a licensed pest and termite control company. She said that the man who inspected did not find any rodents. He did suggest that she put out rodent traps around the perimeter of her house and have the company monitor her house for this activity. She also said that Ms. Banyas inspected her house on May 20, 2017 and has been there a number of other times. She advised her that she did not see rodent activity. In the 49 years she has lived on the island, she has never seen a raccoon or a possum on the island or on her property. She explained that she cut down many large bushes and she did see a large cat. It could have been mistaken for a raccoon and now she does not see the cat anymore. She gave a copy of her signed pest control contract to Inspector Banyas.

The Special Magistrate said that it looks like Ms. Charlton is doing what it takes to get this issue resolved. He explained that if this comes back, it could be a problem. Ms. Banyas showed photos to Ms. Charlton. William Ferrante, a neighbor, said that he has resided there 40 years. He has trapped possums in his backyard and he knows the difference between a possum and a cat. A neighbor of his had to set traps on his property for rats. This neighbor continues to have rodent control. Pictures were taken and sent to Code Compliance. The rodent company found the cause to be undergrowth as well as lack of maintenance of palm trees. Rats nest in palm trees. He felt that this rodent problem has been dragging on way too long.

Bob Fleishman lives across the street from the neighbor Mr. Ferrante was talking about. Mr. Fleishman said that it was a jungle in the back of Ms. Charlton's property. He saw the infestation of rats coming from her backyard. She has cleaned up but it should have been done years ago. He hopes that it does not happen again. John Graziano, Terra Mar Civic Association, said that he lives four houses away. He has trapped possums twice and his neighbor to the east took them to the Everglades to let them go. He has trapped multiple rats almost immediately after the property on the corner was cleaned up. There really was an infestation. He said there are foxes and raccoons on the island. The remedies have now been taken but that property has to be cleared periodically.

The Special Magistrate re-called Ms. Charlton and told her that Ms. Banyas' pictures are being entered into the file as the Town's Composite Exhibit. Ms. Charlton said that she is not certain that the raccoons and possums came from her property. There are no pictures of them on her property. The Special Magistrate said that it is good that she had her property taken care of and that she has a pest control company. He told her to stay on top of the situation. The Special Magistrate ordered a finding of fact that there was a complaint for the landscaping and rodent source and these violations did exist but have been brought into compliance prior to today. There was testimony given by neighbors. He further ordered that if the violations re-occur in the future, they could be deemed a repeat violation on either count with evidence showing that the violation(s) re-occurred. Ms. Banyas reminded that a fine for a repeat violation is \$500/day/violation. The Special Magistrate reminded Ms. Charlton that she must control the landscape growth. As part of his order, the special magistrate waived Administrative Costs for tonight's hearing.

ITEM #V.5

***TAKEN OUT OF SEQUENCE**

Case #: 17040001 – Permits Required Violations

Property Owner: Karvin, Mitchell

Address/Folio: 1910 Waters Edge

Code Section(s): Florida Building Code 5th Edition (2014) FBC BCA Section 105.1 – Permits Required.

Inspector Banyas testified that the owner was going to appear but he had surgery today and could not attend. She said that this violation should be complied within the next seven days. She said that service was by hand delivery to the owner. The Town observed a seawall being repaired without a permit. The owner was ordered to stop work and obtain an after-the-fact permit before continuing. She said that he did obtain a permit and the final inspection is scheduled for tomorrow. Building Official Jack Morell reiterated that the final inspection will be tomorrow. The Special Magistrate ordered seven days from today, June 1, 2017 to comply or a fine of \$150/day plus \$150 Administrative Costs for today's hearing due June 1, 2017.

Marc Pearson, next-door neighbor, started to speak but came up for the wrong agenda item. Then David Saindon spoke as president of the Bel Air Civic Association. He said that this property is a chronic issue for many of the people living on Waters Edge Street. The owner parks commercial vehicles throughout the cul-de-sac the entire weekend, all week, and overnight. It is a constant call to Code Compliance and not just for the unpermitted dock work. Ms. Banyas confirmed that there have been many calls and e-mails regarding this property. For a previous Special Magistrate hearing, a commercial vehicle complaint was brought into compliance prior to the hearing. However, the Special Magistrate ordered a finding of fact that should there be evidence again about a commercial vehicle parking violation, it could be deemed a repeat offense and could be subject to fines.

ITEM #V.11

***TAKEN OUT OF SEQUENCE**

Case #: 17040010 – Building Code Violations

Property Owner: 3221 Spanish River Drive LLC

Address/Folio: 3221 Spanish River Drive

Code Section(s): Florida Building Code 5th Edition (2014) FBC BCA Section 105.1 – Permits Required.

Inspector Banyas testified that the Hearing Notice was sent on April 25, 2017 to the owner of record, to the registered agent, and to the vacation rental agent. The green card was received for the latter. The Town was requesting a Final Order regarding the conversion of a single family home with the addition of an extra bedroom that was not on the original plan. Building Official Jack Morrell testified that a permit was applied for on May 8, 2017 for the room built without a permit. It was reviewed and comments were written on May 15, 2017 and the items requested (electrical permit application and detail of the wall) were not received. The room was built and was being used as a bedroom but does not meet the emergency requirements for emergency egress and the windowsill is too high up off the floor. It cannot be used as a bedroom but could be used as an office. Ms. Banyas said that the Town was requesting a Final Order giving thirty days to comply. The plan submitted will not be for a third bedroom but rather for a designated study/office. With this plan, there would be no need for emergency egress. Ms. Banyas answered the Special Magistrate that since this is a vacation rental property, by Ordinance occupancy is suspended. There will be another inspection when this is fixed because the number of bedrooms would have to be changed on the vacation rental application.

Jack Thibaut testified that he bought this as a three-bedroom house. He will know tomorrow if he will make it into a three-bedroom house. Ms. Banyas asked for compliance by June 21, 2017 by finalizing the permit or a fine of \$150/day plus \$150 Administrative Costs due by June 21, 2017. The Special Magistrate ordered compliance by June 21, 2017 or \$150/day fine and \$150 Administrative Costs for this hearing due by June 21, 2017 and this agenda item will come back to the June 22, 2017 Special Magistrate Hearing. Mr. Thibaut said that he will not be able to attend the June 22, 2017 hearing. He was told to let Ms. Banyas know the name of whomever he wants to be his representative for that hearing.

William Ferrante testified that he lives directly across the street. He spoke about traffic jams in front of this vacation rental. He asked if the people renting could be told that they have to park their cars in the driveway. He has noticed that there could be half a dozen cars double parked in the street. Ms. Banyas explained that vacation rentals need to abide by the parking sketch. They cannot park on other people's property or swales without permission. She said Code could be called. She also spoke about Parking Compliance or BSO non-emergency.

OLD BUSINESS

ITEM #V.3

***TAKEN OUT OF SEQUENCE**

Case #: 16080006 – Citizen Complaints
Property Owner: Thibaut, Jack H W & Annika
Address/Folio: 3260 Oleander Way
Code Section(s): Florida Building Code Section 105.1 Required

Inspector Peart testified that on August 25, 2016, this property was inspected by Inspector Sharon Foster who observed work without permits for a tiki bar and a hot tub. She said that this case was continued because the owner is in the process of applying for a zoning variance. The Board of Adjustment gave the owner until July 5, 2017 to submit a valid plan per Inspector Banyas. Ms. Peart said that the Town was seeking a Final Order giving 60 days to come into compliance. Ms. Banyas explained that the owner would have to submit a new valid plan that is approvable by the Board of Adjustment or get a demolition permit and remove everything and have it finalized.

Mr. Thibaut said that he bought the house in 2003 with the bar but he would take that out. The hot tub was old, so he is working with an architect to come up with a plan for it. He explained why he did not think this could be done in sixty days. Ms. Banyas explained that Mr. Thibaut did apply for the variance but the Board of Adjustment did not recommend what he applied for. She said there are other possibilities. The Town's position is that this has been going on for about a year. If the bar is going to be removed, it should be done now as they are unsure if it is a safe structure. As far as the hot tub, Mr. Thibaut has to have his architect draw up an approvable plan. The Special Magistrate ordered a Final Order that by July 3, 2017, Mr. Thibaut needs to present a completed variance application with an approvable plan and needs to remove the entire tiki structure or a fine of \$200/day/violation plus \$150 Administrative Costs to be paid by July 3, 2017. Building Official Jack Morrell testified that anything that is covered by the code and work was done without a permit is deemed to be unsafe. This has been going on too long. This will be brought back to the July 27, 2017 Hearing Agenda. Ms. Banyas clarified that Mr. Thibaut has another option if he decides not to apply for the variance. She said that he could properly remove the hot tub. Ms. Banyas reminded Mr. Thibaut that he would need a demolition permit to remove the bar structure.

NEW BUSINESS

ITEM #V.9

***TAKEN OUT OF SEQUENCE**

Case #: 17040002 – Citizen Complaints
Property Owner: Buchanan, Wayne D Mazur, Andrea M
Address/Folio: 1911 Waters Edge
Code Section(s): Broward County Code of Ordinance Chapter 39 Zoning Section
39-275(12) General provisions
Chapter 30 – Unified Land Development Regulations
Section 30-313(q)(2)
Chapter 30 – Unified Land Development Regulations
Section 30-477(a)

Chapter 6 – Building and Building Regulations Section 6-36(a)
Chapter 6 – Building and Building Regulations Section 6-36(c)
Chapter 6 – Building and Building Regulations Section 6-36(b)
Chapter 6 – Building and Building Regulations Section 6-41(a)(5)

ITEM #V.10

Case #: 17040008 – Building Code Violations
Property Owner: Buchanan, Wayne D Mazur, Andrea M
Address/Folio: 1911 Waters Edge
Code Section(s): 5th Edition (2014) FBC/BCA Section 116 116.2.1.2.2 Criteria
Florida Building Code 5th Edition (2014) FBC/BCA Section 116
116.2.1.1.1 Criteria.
Florida Building Code 5th Edition (2014) FBC/BCA Section 116
116.2.1.2.3 Criteria.
Florida Building Code Section 105 Section 105.1 Required
Florida Building Code Section 105 Section 105.11.2.1

Inspector Banyas testified that there are two cases for this property. One is for property maintenance and the other is for Florida building code violations. For case #17040008 (item #10), she said that on April 21, 2017, Hearing Notice was sent to the owners of record and a green card was received. The Town was requesting a Final Order today for the three violations observed by Mr. Morrell (1, unsafe structure, 2, vacant, unguarded open and unsafe structure, and 3, partially destroyed and deemed unsafe structure). There was also work without permits and expired permits on the property. Building Official Jack Morrell testified that this property, when it was inspected, depicted an elevated deck removed without a permit. They did obtain a permit for fencing around the pool which was unguarded as well as around the dock multilevel. They obtained a permit and completed it for the roof. They obtained permits for garage door and windows. They have a deck and dock permit. He said that they have done a good job getting permits to cure the violations. He answered the Special Magistrate that what remains to be obtained is an after-the-fact permit for the deck they took down, and for the dock railings and steps between the two levels of the dock.

Ted Galatis, attorney for the owners, believes that his clients are grandfathered in with the permits they have from the county for the decking from property line to property line. He said that the decking overlaps the seawall by a few feet. There is dockage below which the owner is prepared to remove. They have applied for permits and he submitted an engineer's drawing. There was a structural issue with a permitted addition. Discussion ensued about setbacks. For clarification, Ms. Banyas showed pictures to Attorney Galatis and then gave them to the Special Magistrate. Attorney Galatis did not think her photos depicted what he saw today. He said the landscaping is better than in her pictures. He said he e-mailed the Town Clerk pictures he took today, May 25, 2017. Ms. Banyas said that her photos were not from today but they do accurately depict the property on the days the pictures were date stamped. They were accepted into evidence by the Special Magistrate as the Town's Composite Exhibit and the attorney's reservations about the pictures were duly noted.

Ms. Banyas said that the Town was seeking a date for compliance for the remaining violations. She said that Mr. Morrell would testify about them. For the next hearing, June 22, 2017, they would like a status hearing and a final order today with 27 days to comply by June 21, 2017 or \$200/day/violation plus \$200 Administrative Costs to be paid by June 21, 2017. Ms. Banyas answered the Special Magistrate that this property is not occupied and that Mr. Morrell would outline what remained out of compliance. Building Official Jack Morrell read into the record

what remained to be done and felt it all could be cured by the next hearing. The Special Magistrate ordered compliance by June 21, 2017 or a fine of \$200/day/violation plus \$200 Administrative Costs to be paid by June 21, 2017 and a status hearing on June 22, 2017.

Marc Pearson, next-door neighbor on the east side, testified that he appreciates the work that has been done. He asked some questions and Mr. Morrell answered them. He expressed concern that the decking material between the dock and the house should be moved 5' from the property line on the east side. Mr. Morrell will check the code on that and it would be moved back if it is 5'. Mr. Pearson wants to ensure that the pool will be treated and that it will not become a mosquito haven. He would like to know the results of the fire inspection inside the house. Ms. Banyas said that the Town should be able to go into the home soon and inspect.

Ms. Banyas said that for the companion case #17040002, agenda item #9, it is in regard to property maintenance violations. She gave pictures to the Special Magistrate. She said they obtained green card from service to the owner. There were seven violations originally and she explained each one and which violations still exist. Attorney Galatis said that the electrical is in compliance and he had photographs sent to the Town Clerk showing all electrical fixtures exterior to the home are operating and interior to the home. They will be calling for an inspection soon. The attorney said that there is no fire hazard inside the home and once the pool is filled, it will be covered. Ms. Banyas spoke about the landscaping. The Town would like the Special Magistrate to find that the violations existed and to set a compliance date for those not compliant. They would like sixty-two days to comply by July 26, 2017 or a fine of \$200/day/violation plus \$200 Administrative Fee due by July 26, 2017. Ms. Banyas asked to stipulate that the Town goes out to the property the day before the hearing to inspect in order to ensure compliance. She would like to meet with Andrea Mazur again. The Special Magistrate ordered compliance by July 26, 2017 or a fine of \$200/day/violation plus \$200 Administrative Fee due July 26, 2017. Also a stipulated order for the Town to meet with Andrea Mazur, property owner, and to have an inspection on July 26, 2017, the day before the July hearing.

David Saindon, spoke on behalf of the Bel Air Civic Association. He said that he hopes the Town and the Special Magistrate are diligent with the people with violations on the Waters Edge street.

ITEM #V.7

***TAKEN OUT OF SEQUENCE**

Case #: 17040006 – Building Code Violations

Property Owner: Affordable Lux Properties LLC

Address/Folio: 4328 N Ocean Drive Units 1-3

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

Florida Building Code Section 116.1.2

Florida Building Code 5th Edition (2014) FBC/BCA Section 116
116.4 Parking.

Florida Building Code Section 111.1.1 Use and Occupancy

Inspector Banyas testified that Hearing Notice was sent on April 13, 2017 to the owner of record and the green cards were signed by the attorney and the owner of the property. The Town was requesting a Final Order and a Finding of Fact on the complied violations. She said this is a three-unit multifamily currently rental, unlicensed property without a Business Tax Receipt and occupancy with no Certificate of Occupancy. There are two units that are attached like a duplex and the front unit is attached. She explained all four violations. Building Official Jack Morrell said that this property was originally cited for doing work without a permit. They needed to also come into compliance with the Florida Accessibility Code. The owner of the building did not

want to do that. She wanted this to be called an owner's unit and then she would not have to comply with the accessibility issues. In order for this to be cured, she will have to have at least one accessible parking space and some drainage on the property. In the beginning of April, the Town received a change of plans. The Town asked for two things: (1) calculations on the drainage and (2) for the planter to be sprinkled or have drought resistant plants and both have not been done. The owner needs to give the Town the information they need on a site plan revision and she needs a long-term lease BTR and cannot lease any of those units for less than thirty days. He explained what the owner would need if a rental was for less than thirty days. Mr. Morrell said that he would like to get a timeline from the owner's attorney, Mr. Peterson, depicting when things would be taken care of. He felt that if they moved diligently, this could be done within the next thirty days.

Attorney Adam Peterson, representing the owner, said he would encourage her to get this done in an expedited manner. The calculations for the driveway and drainage were happening this week. As soon as the owner obtains the plans from the engineer, the attorney told his client to have them delivered to the Building Department. His client did apply for a BTR that has not been approved. His client understands what she has to do if she decides to have short-term rentals. Ms. Banyas said that the Town was requesting that all violations be cured within thirty days and would like a Finding of Fact for occupancy without a Certificate of Occupancy. She said that the violation has re-occurred since the original violation. The Special Magistrate suggested cutting the power when the building has occupants without having a Certificate of Occupancy. The attorney would rather that the power was not cut. The Special Magistrate stated that if people are occupying the building when they should not be there, he would leave it to Mr. Morrell's discretion to pull the power. Mr. Morrell said that he would do that and the Special Magistrate asked the attorney to inform his client about this. Ms. Banyas would like this to come back to the next hearing so the Town was asking for 27 days to comply or a fine of \$200/day/violation plus \$200 Administrative Costs due by June 21, 2017. She would like a specific order for each violation. (a) – Rental without a Business Tax Receipt – have the owner revise and re-submit her BTR, if that's possible, to rent the back two units long-term only. She explained that none of her submitted BTRs could be approved because the front unit is listed on there. (b) – the occupancy without a CO did exist and re-occurred and wanted a Finding of Fact. She stated for the record that in the future, the fine for this would be \$500/day. Mr. Morrell stated for the record that the owner cannot rent any short-term for any one of the units for less than thirty days and she has to obtain a BTR for long-term rental to be in compliance.

The Special Magistrate ordered a Final Order for compliance by June 21, 2017 for the existing violations or a fine of \$200/day/violation plus \$200 Administrative Costs due June 21, 2017, a Finding of Fact that occupancy without a Certificate of Occupancy did exist and if it should re-occur in the future, the property could be deemed a repeat violator and fines could be immediately assessed, and a Finding of Fact that the removal of the Florida Building Code Notices did exist and should it re-occur in the future, the property could be deemed in repeat violation and fines could be immediately assessed.

Special Magistrate Clerk Jhanelle Campbell called all the cases dealing with the marina.

ITEM #V.14

***TAKEN OUT OF SEQUENCE**

Case #: 17040007 – Zoning Violations
Property Owner: Silver Shores Yacht Basin Inc
Address/Folio: 230 Basin Drive
Code Section(s): Chapter 12. Licenses. Section 12-2(b) Required.
Chapter 30 – Unified Land Development Regulations

CERTIFICATION OF LIEN

ITEM #V.24

***TAKEN OUT OF SEQUENCE**

Case #: 17030015 – Zoning Violations
Property Owner: Silver Shores Yacht Basin Inc
Address/Folio: 226 Basin Drive
Code Section(s): Chapter 30 – Unified Land Development Regulations
Section 30-311(c)(11)

ITEM #V.25

Case #: 17030017 – Property Maintenance
Property Owner: Silver Shores Yacht Basin Inc
Address/Folio: 226 Basin Drive
Code Section(s): Chapter 6 – Building and Building Regulations Section 6-41(a)(1)
Chapter 6 – Building and Building Regulations Section 6-41(a)(2)

ITEM #V.26

Case #: 17030016 – Property Maintenance
Property Owner: Silver Shores Yacht Basin Inc
Address/Folio: 230 Basin Drive
Code Section(s): Chapter 6 – Building and Building Regulations Section 6-41(a)(1)
Chapter 6 – Building and Building Regulations Section 6-41(a)(2)

ITEM #V.27

Case #: 17030018 – Property Maintenance
Property Owner: Silver Shores Yacht Basin Inc
Address/Folio: 226 Basin Drive
Code Section(s): Chapter 6 – Building and Building Regulations Section 6-41(a)(8)
Chapter 6 – Building and Building Regulations Section 6-41(a)(9)

ITEM #V.28

Case #: 16080024 – Building Code Violations
Property Owner: Silver Shores Yacht Basin Inc
Address/Folio: 226 Basin Drive
Code Section(s): Chapter 30 – Unified Land Development Regulations
Section 30-311(c)(2)b
Chapter 30 – Unified Land Development Regulations
Section 30-311(c)(7)

ITEM #V.29

Case #: 16080025 – Building Code Violations
Property Owner: Silver Shores Yacht Basin Inc
Address/Folio: 230 Basin Drive
Code Section(s): Chapter 30 – Unified Land Development Regulations
Section 30-311(c)(2)b
Chapter 30 – Unified Land Development Regulations
Section 30-311(c)(7)

Code Inspector Banyas testified that for case #17040007, agenda item #14, on April 15, 2017, Notice was sent to the marina and also to the person who was violating. Steve Smith was

operating a water craft rental company out of the marina without a conditional use which is required and also without a Business Tax Receipt (BTR). Ms. Banyas met with him and explained the situation and he thought he was free to do this. The Town simply wants to establish that the violation did exist and should it re-occur, it could be subject to \$500/day fines as a repeat violation beginning on the first day it is observed. The Special Magistrate ordered a Finding of Fact that should this violation re-occur it could be deemed a repeat violation and may have immediate fines assessed. No Administrative Costs for this item.

Code Inspector Banyas testified that for case #17030015, agenda item #24, it is a repeat violation. She showed pictures of the property to Attorney Michelle Klymko and gave the pictures to the Special Magistrate. She explained that while the entire marina mooring area application process is going on, the Town Manager set an order to accommodate longer boats so that no more than two may be docked. She documented when more than two boats extended past the line in the picture. The Town was asking for certification of the \$500/day fine for repeat violation. To date, the fine is \$3,000 plus Administrative Costs.

Attorney Klymko said that the marina owner passed away and had all the information for the captains. His son, Joey, has taken over the marina and is doing everything possible for things to go well. In this particular case, she agrees it is a repeat violation but asks that due to the unfortunate circumstance of the owner's death, to understand that the captains were now notified and there have been no more violations. Ms. Banyas said that it did come into compliance but there were six documented days that there were violations. The Special Magistrate ordered the \$3,000 fine mitigated to \$1,500 due to the circumstances plus \$200 Administrative Costs both to be paid within 32 days by June 26, 2017. The Special Magistrate warned that if this should come back again, he would assess the full amount of the fine.

Code Inspector Banyas testified that for case #17030017, agenda item #25, and its companion case #17030016, agenda item #26, the notices were sent on the same day and green cards were received from the owner, registered agent and attorney. Both cases had trash and litter on the dock and storage of miscellaneous loose items were on the dock. For case #17030017, this parcel had hazardous material on the dock as well. The Fire Marshal went to the site on March 29, 2017 and inspected it and deemed it hazardous material. Attorney Klymko explained that a service changed the oil on a yacht and left the tub of used oil to be picked up and disposed properly which was done that day after the inspection. Ms. Banyas said she saw the tub there for two days and advised them but had only one day of documentation. The Town was asking for at least one day of the \$500/day fine stated at the last hearing. Ms. Banyas showed her photos to Attorney Klymko and to the Special Magistrate. He accepted them into evidence without objection as the Town's Composite Exhibit. Attorney Klymko did not recall hazardous material being a repeat violation subject to \$500/day fine. Ms. Banyas explained what happened at the previous hearing and why hazardous material was subject to this amount of fine. Ms. Klymko did not remember the \$500/day fine as a ruling but rather a discussion point. Ms. Banyas also asked for \$200 Administrative Costs. Town Attorney Alan Gabriel clarified that the hazardous material was only on one parcel. The Special Magistrate ordered a one-day \$500 fine plus \$200 Administrative Costs to be paid within 32 days by June 26, 2017. The Special Magistrate ordered a Finding of Fact for both parcels (case #17030017 and case #17030016) that storage and also trash/litter (including hazardous materials on the 226 parcel only) existed on the docks and should these violations occur again, it could be deemed a repeat violation subject to immediate fines.

Code Inspector Banyas testified that for case #17030018, agenda item #27, that the entire decking structure behind the Cookie Shop building on Basin Drive is in horrible disrepair

(railings and walkway). It is clearly unsafe to walk on. She showed pictures to Attorney Klymko. She said the Town asked for 45 days to cure this violation which has been partially corrected. She was asking for \$200/day fine if not in compliance plus \$200 Administrative Costs.

Attorney Klymko said she saw the pictures and had no objection to them. She said that the new owner was in contact with Building Official Jack Morrell. This would definitely be repaired. However, in order to repair this, there are seawall issues. She explained that an orange safety fence would be put up to keep people out of this area. The attorney asked for 60 days to get the violation cured because of the seawall issue. The Special Magistrate accepted the photos into the record as Town's Composite Exhibit without objection. He ordered an interim order that the orange safety fence would be installed by Saturday, May 27, 2017. Mr. Morrell explained that this area cannot be accessed by the public but only by the few retailers there. The Special Magistrate ordered 60 days to comply, by July 24, 2017 or a fine of \$200/day plus \$200 Administrative Costs due by July 24, 2017 and this item would be on the June 22 Hearing Agenda as a Status Hearing.

Code Inspector Banyas testified that for case #16080024, agenda item #28, and its companion case #16080025, agenda item #29, these two cases were for finger piers that were in disrepair and highly unsafe to walk on. They were removed and what remains is the matter of fines that accrued for non-compliance between a period of time back in October. She gave the history as to what transpired. She said that the total amount is \$3,000 for non-compliance. She said that she met with the Director of Development Services and the Town Attorney and it was decided that due to the fact that they did comply, they would only impose a \$500 flat fee for both cases. She answered the Special Magistrate that there are two cases regarding finger piers. The Town was requesting \$250 flat fee and \$100 Administrative Costs for today's hearing for case #16080024 and \$250 flat fee and \$100 Administrative Costs for today's hearing for case #16080025 which equals \$700 due July 24, 2017. The Special Magistrate ordered \$250 flat fee fine and \$100 Administrative Costs for today's hearing for case #16080024 and \$250 flat fee fine and \$100 Administrative Costs for today's hearing for case #16080025 all due by July 24, 2017 in the total amount of \$700. .

Ms. Campbell announced that they would do the FDG cases now.

CERTIFICATION OF LIEN

ITEM #V.15

***TAKEN OUT OF SEQUENCE**

Case #: 16120002 – Property Maintenance

Property Owner: FDG South LLC

Address/Folio: 4116 N Ocean Drive

Code Section(s): Chapter 30 – Unified Land Development Regulations

Section 30-317(g)

Chapter 30 – Unified Land Development Regulations

Section 30-317(d)

Chapter 30 – Unified Land Development Regulations

Section 30-477(a)

Chapter 30 – Unified Land Development Regulations

Section 30-512(b)

Chapter 6 – Building and Building Regulations Section 6-36(a)

Chapter 6 – Building and Building Regulations Section 6-36(c)

Chapter 6 – Building and Building Regulations Section 6-36(e)

Chapter 6 – Building and Building Regulations Section 6-37(a)(1)

Chapter 6 – Building and Building Regulations Section 6-37(a)(2)

Chapter 6 – Building and Building Regulations Section 6-40(a)

ITEM #V.16

Case #: 16120056 – Building Code Violations
Property Owner: FDG South LLC
Address/Folio: 4116 N Ocean Drive
Code Section(s): Florida Building Code 5th Edition (2014) FBC BCA Section 105.3.2.1 – Permits. Time Limitation.

ITEM #V.17

Case #: 16120054 – Building Code Violations
Property Owner: FDG South LLC
Address/Folio: 4108 El Mar Drive
Code Section(s): Florida Building Code 5th Edition (2014) FBC BCA Section 105.3.2.1 – Permits. Time Limitation.

ITEM #V.18

Case #: 16110010 – Property Maintenance
Property Owner: FDG South LLC
Address/Folio: 4108 El Mar Drive
Code Section(s): Chapter 30 – Unified Land Development Regulations
Section 30-477(a)
Chapter 6 – Building and Building Regulations Section 6-36(a)
Chapter 6 – Building and Building Regulations Section 6-36(c)
Chapter 6 – Building and Building Regulations Section 6-36(e)
Chapter 6 – Building and Building Regulations Section 6-37(a)(1)
Chapter 6 – Building and Building Regulations Section 6-37(a)(2)
Chapter 6 – Building and Building Regulations Section 6-40(a)

ITEM #V.19

Case #: 16120001 – Property Maintenance
Property Owner: FDG South LLC
Address/Folio: 4110 El Mar Drive
Code Section(s): Chapter 30 – Unified Land Development Regulations
Section 30-477(a)
Chapter 6 – Building and Building Regulations Section 6-36(a)
Chapter 6 – Building and Building Regulations Section 6-36(c)
Chapter 6 – Building and Building Regulations Section 6-36(e)
Chapter 6 – Building and Building Regulations Section 6-37(a)(1)
Chapter 6 – Building and Building Regulations Section 6-37(a)(2)
Chapter 6 – Building and Building Regulations Section 6-40(a)

ITEM #V.20

Case #: 16120055 – Building Code Violations
Property Owner: FDG South LLC
Address/Folio: 4110 El Mar Drive
Code Section(s): Florida Building Code 5th Edition (2014) FBC BCA Section 105.3.2.1 – Permits. Time Limitation.

OLD BUSINESS

ITEM #V.4

***TAKEN OUT OF SEQUENCE**

Case #: 16120011 – Building Code Violations
Property Owner: FDG South LLC
Address/Folio: 4108 El Mar Drive
Code Section(s): Florida Building Code 5th Edition (2014) FBC BCA Section 110.15 – Building Safety Inspection Program.

Inspector Banyas testified that agenda items 15 through 20 are for certification of fines for non-compliance. She explained that Florida Development Group (FDG) did sit down with staff and created a plan for compliance but the start date is too far in the future and the Town is opposed to it. She was advised that they have come tonight with another plan to present. Attorney Robert Lochrie said that Doug Barrow worked with the Town previously regarding FDG. Mr. Barrow said they put together a complete development package to go out to bid and start working with a detailed calendar of a timeline of events. He said that right now they have their structural engineers working on a structural repair plan. He feels that work would be starting within six weeks. The Special Magistrate asked if this was for all the properties and Mr. Barrow explained not for 4116 because of architectural components.

Building Official Jack Morrell testified that for 4108 and 4110, minimum 40-year inspections were done but they never were satisfied. They are up now for 50-year inspections. FDG's first timeline did not show any activity expected until January 2018 which the Town found unacceptable. Mr. Morrell has not seen the new schedule yet, but he understands that they want to start with 4108 and 4110. However, the Town wants them to get moving with 4116 as well. Attorney Lochrie said what they did present was unacceptable to the Town. He presumes that he knows now what the Town expects. The Town was very clear with what they would accept from FDG and they want to get that into the Town as it has not yet been reduced to writing. Town Attorney Alan Gabriel said that he suggests that discussion continues between the Town and FDG with the expectation and understanding that parties will meet and write up a valid stipulated order for all the properties separately which would be acceptable to the Town and brought to the next hearing. Mr. Gabriel clarified that if they come back again to the next hearing with no agreement, then fines would be assessed for agenda items 15 through 20.

Ms. Banyas voiced concern about the fifty-year inspection, agenda item #4. She said that the stipulation was to submit a valid report which met the criteria for reporting. The report did not meet the reporting criteria as they could not get into the building. So the fifty-year inspection is not in compliance as the report does not contain full and valid information. Building Official Jack Morrell said that the forty-year building program and the subsequent ten-year program require that the Town has the report in hand thirty days after notification. Then they would have 180 days to complete the repairs. They are approximately ten years out of date on all three of the buildings. A report must list what the deficiencies are on every aspect of the building. The Town does not have that. Attorney Lochrie said they would be happy to provide that. It was decided to continue agenda items 15 through 20 so that the parties could meet and come back with a stipulated order at the June 22, 2017 Hearing. For agenda item #4, the submitted report was not in compliance. There would be a new order for compliance by June 21, 2017 and the Special Magistrate spoke about imposing a \$500/day fine if the report was not compliant when submitted on or before June 21, 2017 plus there would be a \$100 Administrative Fee assessed and due by June 21, 2017.

The Special Magistrate ordered a continuance for FDG to come back to the June 22, 2017 hearing with an agreed upon stipulated order for agenda items 15 through 20 plus for agenda item #4, FDG is to be in full compliance with a report that is to Mr. Morrell's satisfaction by June

21, 2017 or an immediate fine of \$500/day would be imposed plus \$100 Administrative Costs to be paid by June 21, 2017.

At this time, Attorney Michelle Klymko asked to clarify what her client was charged for Administrative Costs at this hearing. Then John Graziano spoke about a case on Terra Mar Island at a prior hearing regarding a rental unit. He said that Terra Mar Island is for one-family residential. He wanted to know if two-family is a permissible use. Inspector Banyas explained the definition of “family” and about “vacation rental and transient uses”.

NEW BUSINESS

ITEM #V.6

Case #: 17010016 – Building Code Violations
Property Owner: Ruckes, Jielmet
Address/Folio: 5100 N Ocean Blvd #617
Code Section(s): Florida Building Code 5th Edition (2014) FBC BCA Section 105.1 – Permits.

Inspector Banyas testified that this would be continued to the next hearing, June 22, 2017.

ITEM #V.8

Case #: 17040003 – Nuisance
Property Owner: Realtyfire Investments LBS LLC
Address/Folio: 255 Oceanic Avenue
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 6-41(a)(1)

Inspector Banyas testified that this agenda item is in compliance. They will be monitored but the case is dismissed.

ITEM #V.13

Case #: 17020002 – No Vacation Rental
Property Owner: Marcotte, Philippe Racine, Natalie
Address/Folio: 3210 S Terra Mar Drive
Code Section(s): Chapter 12. Licenses. Section 12-2(a) Required.
Chapter 30 – Uniform Land Development Regulations Section 30-327 (a)
Chapter 30 – Uniform Land Development Regulations Section 30-327 (c)
Chapter 30 – Uniform Land Development Regulations Section 30-327 (d)

Inspector Peart testified that they are in compliance and the Town was requesting a Finding of Fact that the violations existed and should a violation(s) re-occur in the future, it may be deemed a repeat violator and immediate fines may be assessed.

CERTIFICATE OF LIEN

ITEM #V.21

Case #: 17040004 – Nuisance
Property Owner: 4326 Ocean Drive LLC
Address/Folio: 4326 N Ocean Drive #1-4

Code Section(s): Chapter 30 – Uniform Land Development Regulations Section 30-477 (a)
Chapter 6 – Building and Building Regulations Section 6-41(a)(1)
Chapter 6 – Building and Building Regulations Section 6-41(a)(7)

Inspector Banyas testified that this was at the last hearing as an emergency case. The Town wants to abate this case for wasps/bees in the fascia, for trash, and for overgrown foliage. The Town was informed that they cannot remove the bees without going inside the vacant house. We do not have access into the home and cannot do the rest of the abatement until the property is clear of bees or whatever they are. Since the Town thought they were going to abate it, they did not ask for fines last time only for abatement. She notified the owner and attorney of this today. Ms. Banyas would like immediate fines of \$250 for each violation and would like to bring this back to the next hearing for certification. The Special Magistrate ordered seven days to comply all three violations by June 1, 2017 or a fine of \$250/violation/day plus \$100 Administrative Costs for today's hearing to be paid by June 21, 2017 and the unpaid \$200 Administrative Costs from a prior hearing still needs to be paid no later than June 21, 2017.

ITEM #V.23

Case #: 17010010 – Building Code Violations
Property Owner: Seaward Villa LLC
Address/Folio: 3210 Seaward Drive
Code Section(s): Florida Building Code 5th Edition (2014) FBC BCA Section 105.3.2.1 – Permits. Time Limitation.

Inspector Peart testified that this will be continued to the July 27, 2017 hearing.

SPECIAL SET - FIRE CASE

Case #: 17-1230 – Fire Case
Respondent: Alfonso De La Puente and Isabel Sa De La Puente
Address/Folio: 5100 N Ocean Drive #1512 and #1514

Inspector Banyas testified that the Town is amenable to the owner's request to extend this to the next hearing in order to finish the work. The compliance date needs to be revised to June 21, 2017. The Special Magistrate ordered a revised Final Order with a new comply-by date of June 21, 2017 or a fine of \$250/day plus the previous \$150 Administrative Costs, if not paid, to be paid by June 21, 2017. There are no Administrative Costs for today's hearing.

ITEM #V.22

Case #: 17020008 – Building Code Violations
Property Owner: Brian P. Carlton
Address/Folio: 1501 S Ocean Blvd #229
Code Section(s): Florida Building Code 5th Edition (2014) FBC BCA Section 105.1 – Permits.

This case #17020008 is to be continued to the July 27, 2017 hearing.

The following cases were listed on the agenda as either complied or continued:

COMPLIED

1. C#: 17020003 3261 Oleander Way

CONTINUED

2. C#: 17030007 237 Garden Court

HEARING DATE

Continue to 7/27/17

VI. ADJOURNMENT

Not having any additional business to be heard, Special Magistrate Tom Ansbro adjourned the hearing on May 25, 2017 at approximately 7:41 p.m.

APPROVED BY:

ATTEST:

Special Magistrate Tom Ansbro

Jhanelle Campbell, Special Magistrate Clerk
Town of Lauderdale-By-The-Sea, Florida