

APPROVED

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

*Town Commission Meeting Room
Thursday, April 27, 2017 at 5:00 PM*

I. CALL TO ORDER, SPECIAL MAGISTRATE TOM ANSBRO

Special Magistrate Tom Ansbro called the hearing to order at 5:04p.m. on Thursday, April 27, 2017. Building Official Jack Morrell, Town Fire Marshall Stephen Paine, Code Compliance Inspector Bethany Banyas, and Code Compliance Inspector Sharon Foster 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 code cases that were either in compliance or continued.

COMPLIED

1. C#:	17020006	1961 Tropic Isle	
2. C#:	16110008	3231 Oleander Way	
3. C#:	16030005	4900 N Ocean Blvd #1210	
4. C#:	16100021	2121 S Ocean Blvd #203	
5. C#:	17010012	1501 S Ocean Blvd #127	
21. C#:	16120017	1615 Blue Water Terr N	
24. C#:	17020011	14 Sunset Lane	
38. C#:	17010003	5000 N Ocean Blvd #1010	
6. C#:	17030014	GARDEN COURT	Finding of Fact
7. C#:	17030009	3221 Spanish River Drive	Finding of Fact
8. C#:	17030011	3221 Spanish River Drive	Finding of Fact
9. C#:	17030006	3221 Spanish River Drive	Finding of Fact
10. C#:	17030008	3230 S Terra Mar Drive	Finding of Fact
11. C#:	17020007	1612 Bel-Air Avenue	Finding of Fact

CONTINUED

12. C#: 16080006	3260 Oleander Way	<u>HEARING DATE</u> Continue to 5/25/17
13. C#: 17020010	236 E Commercial Blvd	Continue to 8/24/17
14. C#: 17030001	4616 Bougainvillea Drive #1-3	Continue to 8/24/17
15. C#: 16110001	267 Capri Avenue	Continue to 6/22/17
16. C#: 17020002	3210 S Terra Mar Drive	Continue to 5/25/17

Special Magistrate Clerk Jhanelle Campbell called the fire case that was to be presented by Town Fire Marshall Stephen Paine and Building Official Jack Morrell.

FIRE CASES**EMERGENCY REQUEST*****TAKEN OUT OF SEQUENCE**

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

Town Fire Marshall Stephen Paine testified that on April 20, 2017 in the morning hours, the Fire Department received a 911 call. Upon arrival, the Battalion Chief was told by building personnel that the smoke detector was set off in the common area in between two units. Work was going on in the hallway. Upon further investigation, it was discovered that an individual was working in the corridor. He did not have a Florida contractor's license and did not have a building permit. Mr. Paine requested that the photos he has are entered into evidence. He showed them to the respondent. The Special Magistrate entered them into evidence without objection as the Town's Composite Exhibit. Town Fire Marshall Paine said that work was stopped. The individual doing the work said he had a company in the northern part of the state. He did not answer if he was a contractor but did say that he did not have a permit. They contacted the Building Department and no permit was on file. Mr. Paine said that what remains to be done must be addressed by a licensed contractor. The Fire Marshall said that the owner of unit #1512 is in attendance and takes full responsibility. The unit owner is in the process of obtaining a licensed contractor.

Alfonso De La Puente testified that he did not know he needed a building permit to change drywall from the ceiling. It is a common area but very small. He spoke with his neighbor who was living abroad and agreed to change the ceiling drywall. He hired a company incorporated in Florida for the drywall repairs. He now knows he needs a building permit and a licensed contractor to do the work and he is hiring a general contractor. Mr. De La Puente accepts full responsibility for what happened.

Building Official Jack Morrell answered the Special Magistrate that he spoke with Mr. De La Puente's contractor. He outlined what needed to be done with signed and sealed architectural drawings. He spoke about the asbestos removal and needing Broward County approval. After the Town receives the drawings and the paperwork from Broward County, then a permit could be issued. If they move quickly, the work could be done in ten working days. The Special Magistrate was told that thirty days should be enough for full compliance. Mr. Paine is agreeable with thirty days for full compliance or \$250/day fine. Ms. Campbell said thirty days would be a Saturday so thirty-two days would be Monday, May 29, 2017. Administrative Fee for this hearing is assessed at \$150. The Special Magistrate ordered compliance in thirty-two days, by May 29, 2017, or a fine of \$250/day plus \$150 Administrative Fee due by May 29, 2017.

Special Magistrate Clerk Jhanelle Campbell will now call the compliance cases that were to be presented by Building Official Jack Morrell.

OLD BUSINESS**ITEM #V.18*****TAKEN OUT OF SEQUENCE**

Case #: 16100022 – Building Code Violations

Property Owner: Vogl, Joseph

Address/Folio: 4645 Bougainvillea Drive

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

Inspector Banyas testified that this property was observed to have a newly sealed and striped parking lot on October 28th and no permits have been obtained either for the Florida building code permit or for zoning permits. She explained that this is required because it is a multi-family property with multiple spaces. She said that the Town sent a Notice of Violation on October 28, 2016.

Building Official Jack Morell said that this case is quite old. It has been going on for quite a while. It's been postponed and postponed and we need to take some action. The violation is doing work without a permit. We received a permit application in mid-November of 2016. We reviewed that and sent out comments. We got a response back, a re-submission back, and on January 12, 2017 there was a delay in clarification from the Town as to whether this was a vacation rental or not. That was settled and we re-reviewed the application again on the 7th of March. This permit will become null and void 60 days from that point which will be May 9, 2017 because it has not been processed. The applicant would then have to re-submit a new permit application as though this application before us now does not exist. He said that he spoke with Mr. Vogl in March explaining to him the reasons required for the accessible parking space. Mr. Vogl did not agree with him. Mr. Morell advised him of two routes he could take. One he could go to the State and ask for a waiver from the accessibility code or two he could take it to the Board of Rules and Appeals and file an appeal. Mr. Vogl spoke to the Chief Code Compliance Officers earlier this week. They called Mr. Morell who gave them the facts of the case. Mr. Morell does not know whether Mr. Vogl submitted an appeal. He has not heard from the board at this point. Mr. Morell said that we need to get some resolution to this matter. He explained that if a lease is for less than 30 days, it makes it transient lodging. Transient lodging is covered by the Florida Accessibility Code and Mr. Vogl has to put in one accessible parking space and accessible route from the sideline to the entrance.

Joe Vogl said that he spoke with Mr. Morell by e-mail on a couple of occasions and tried to explain to him that the Florida Accessibility Code has an exception which provides for owner/proprietor's rentals with less than five units. The Special Magistrate explained that he does not have jurisdiction to say whether or not Mr. Vogl is entitled to the exception. He decides if there is a violation or not and can give him time to cure it. He asked if he filed an appeal in either of the two jurisdictions. Mr. Vogl said he did not but there is still time to file the appeal. The next hearing date is in June. He said there is still the question of whether or not the board would rule on this particular case because this is a Florida Accessibility Case rather than a Florida Building Code case. Mr. Vogl said that Mr. Morell had not approved his permit request on two occasions once he re-submitted it because he did not have the proper dimensions. The second time he requested a building permit, he believed his drawings were in compliance with the code provided he did not have to have an ADA spot. It's his belief that he doesn't have to provide one. He has read the code twenty times where it is very clear that there is an exception for his type of property. He said that since Mr. Morell will not issue him a building permit, he cannot go forward with compliance.

He explained that there are four bedrooms and there cannot be two parking spots for four bedrooms. By forcing him to have an accessible parking space, it changes his rentals

completely. He felt that he was basically being told that he could not rent them short term any more but could rent them for an extended period of time by suggesting that we have to be ADA compliant. Mr. Vogl showed a letter to both Mr. Morell and to the Special Magistrate. He originally sent the letter to Mr. Morell outlining his arguments. The Special Magistrate entered it into evidence. Mr. Morell explained that Mr. Vogl leases for less than thirty days. His minimum stay is seven days, therefore, he is transient lodging and has to comply with the Florida Disability Code. As far as the exemption Mr. Vogl is referring to, Mr. Morell said that the only thing that is exempt is the unit that Mr. Vogl lives in and not the rest of the property or the other units that he is leasing out.

Inspector Banyas said that the Town would recommend that there is no compelling reason to delay the finding of the fact that this work was done simply without permits. She sees no reason not to proceed with the issuance of a final order giving reasonable time to comply. Mr. Morell recommended imposing a fine of \$50/day. Should he win his appeal, Mr. Morell would waive the fine. If he loses the appeal, Mr. Vogl pays the fine. The Special Magistrate said that Mr. Vogl said that the appeal could not be filed until June. Mr. Vogl said the next scheduled meeting is June 8th. The Special Magistrate said he would give 45 days to comply but Ms. Campbell said that was a Sunday, June 11th. The Special Magistrate said that the compliance date would be June 12, 2017 or a fine of \$50/day because it is a finding of fact that Mr. Vogl did work without a permit.

The Special Magistrate explained that as long as he retains jurisdiction, it does not become a lien, and he will be able to do things like reduce the fine. If Mr. Vogl's appeal is upheld, Mr. Morell said it would be completely forgiven. If he is vindicated, it only makes sense. But at least we are giving it until June 12th. The Special Magistrate ordered compliance by June 12, 2017 or a fine of \$50/day plus \$150 Administrative Fee for today's hearing due by the same day, June 12, 2017. He asked Mr. Vogl to notify staff if his appeal is accepted or not or if he is in litigation. In this way, the Town knows what to do with this case during any process or if it is turned down. Mr. Vogel asked the Special Magistrate if there is a process where he can compel Mr. Morell to consult with an attorney to get a clear understanding of this. The Special Magistrate said he can ask him but cannot compel him to do that. Mr. Morell said that Mr. Vogl's relief is through the Board of Rules and Appeals. The Special Magistrate reminded Mr. Vogl to keep staff informed and there will be a status conference for this case at the June 22nd Hearing. Issues could be worked out at the status hearing. If the case should be found to be in compliance, it would not come back to the June Hearing but rather it would essentially be dismissed.

NEW BUSINESS

ITEM #V.20

***TAKEN OUT OF SEQUENCE**

Case #: 17010005 – Building Code Violations

Property Owner: Degroff, June R

Address/Folio: 1431 S Ocean Blvd. #79

Code Section(s): Florida Building Code 5th Edition (2014) FBC BCA Section 105.3.2.1 – Permits. Time Limitation.

Inspector Sharon Foster testified that the property was posted and the Affidavit of Posting is in the file. Their permit for exact change out for an air duct system expired on July 12, 2016 due to lack of progress. The Building Department sent a letter to the property owner on August 9, 2016 and a Notice of Violation was sent on January 13, 2017. Ms. Foster reported being in contact with the property owner and her attorney Patrick Gionta. She explained that both she and Building Official Jack Morell met with a new contractor. Ms. Foster said that there was a contractor who did work but did not call for an inspection. The work was not finished. The

property owner is in the process of filing a lawsuit against that contractor. A new contractor came in and was advised by the Building Department what he needed to do to get the permit renewed.

Building Official Jack Morell testified that there were no inspections on the expired permit. The contractor they met with earlier in the week stated that the duct work was a mess. The contractor has to renew the permit. He has until July 12, 2017 to renew it. If not, he will have to start over again from square one. The new contractor has to install the duct work according to the approved plans and call for an inspection to get this closed out. Mr. Morell answered the Special Magistrate that the new contractor can get this job done by tomorrow to renew the permit. He spoke about the new contractor's concerns.

Attorney Patrick Gionta said that they concur with what Mr. Morell has stated. The concern of the expert and his contractor is with any potential liability which is associated if the prior contractor comes in and states that the work that he did is up to code and the homeowner refused his coming back for inspection. They would like to get an inspection now so that Code Enforcement could then state the violations. Then there would be a record and the new contractor could come in and correct the violations.

Mr. Morell said that there is no active permit so the Town could not do an inspection. What this contractor has to do and what the other contractor did are legal matters between the property owner and that contractor. The new contractor could take photos or something of that nature. You can have a third party architect or engineer look this over. The new contractor would have to do a change of contractor and we would renew the permit to get this completed. Mr. Morell recommends thirty days for full compliance which would be a Saturday, May 27th so the compliance date was changed to May 29, 2017. The fine would be \$100/day plus \$150 Administrative Fee for today's hearing. The attorney asked if the Administrative Fee could be waived and was told that the Town could give 90 days, July 26, to pay it. The Special Magistrate ordered full compliance by May 29, 2017 or a fine of \$100/day plus \$150 Administrative Fee due July 26, 2017.

ITEM #V.22

Case #: 17010010 – Building Code Violations

Property Owner: Seaward Village 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.

The property owner or anyone to represent the property owner was not in the audience. Ms. Campbell said that they would go on to another case and call this one later. After all seven FDG cases were discussed, this item was heard.

Inspector Sharon Foster testified that this is for certification. They had a check that was returned and we tried to reach out to the property owner and contractor to get their check in so they could have an inspection. We did make contact with them and a check was brought in. It was received on April 25th. The Town is waiting for the check to clear. She was asking for a revised final order to change the comply-by date to give them time to get the check to clear. She was asking for two weeks or May 11, 2017. She asked if the date for the Administrative Fee from the previous order can also be changed to May 11, 2017. The Special Magistrate ordered a revised final order with a comply-by date of May 11, 2017 or a fine of \$200/day plus \$150 Administrative Fee due by May 11, 2017.

CERTIFICATION OF LIEN**ITEM #V.28*****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 Bethany Banyas testified that this case was in front of the Special Magistrate for a final order in February 2017 and then a revised final order on March 23, 2017 granting more time to submit the report. Mr. Morell said that they have not received it yet. Attorney Nectaria Chakas said that the report is ready. They have not put it on the form that is required. She already showed the report to Mr. Morell. She said that FDG did more than they had to do by doing reports for all of the properties, not just this one.

For clarity, Mr. Morell said that what they have and what he has seen were basically a set of specifications to make the repairs. It is not the report that is mandated by the County. The attorney was requesting another ten days to submit it on the required form. Mr. Morell answered the Special Magistrate that he is fine with an additional ten days. Ms. Campbell said ten days is Sunday, May 7th. The compliance date will be May 8th. Ms. Banyas said that for compliance they are to submit the full report on the form required along with the application fee. It must be a full and valid application. The Special Magistrate ordered full compliance by May 8, 2017 or a fine of \$200/day plus \$100 Administrative Fee for today's hearing due in thirty days by May 29, 2017. It was decided that all seven of the FDG cases tonight will each have \$100 Administrative Fee due by May 29, 2017 (which was later revised).

ITEM #V.29

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.

Inspector Bethany Banyas testified that this case is for expired permit. It was here before you in February 2017 for a final order with an April 24, 2017 compliance date. The permit has not been renewed as of today. The fine has begun to accrue for three days at \$200/day for a total of \$600 for one violation. She would like to certify \$600 today and the additional \$100 Administrative Fee due by March 29, 2017.

Attorney Nectaria Chakas asked to extend the compliance date. This is part of the overall large scale renovation of the buildings. The expired permit was filed by the previous owner. For clarity on all these cases, Building Official Jack Morell testified that FDG will have to obtain new permits for the work they are going to do. When they do that, then these permits will be voided out. The fines will have to continue to run on the older permits. Mr. Morell said that they gave him a timetable and they are not anywhere near that timetable. He was requesting an updated schedule on when the things would be done.

Ms. Banyas said that the Town does not anticipate this violation being cured and new permits being pulled within any reasonable length of time. She wanted the attorney to say when she anticipates the violation being cured by obtaining new permits. Then she would like to know if

the Special Magistrate would be amicable to recording a lien around her estimated date. Mr. Morell thinks the prior schedule took us out to early 2019 for the completion of the three buildings. The Special Magistrate recommends that the parties meet about a compliance schedule and bring that back to the Special Magistrate. He would defer ruling on all the related cases. Ms. Banyas asked if they could provide a very clear, updated timeline. She said that all of the violations that remain, the Town does not anticipate that they would be cured in the near future. The Special Magistrate recommended bringing back a negotiated new timetable as a Stipulated Agreement for the May 25, 2017 Hearing. Mr. Morell said that the biggest thing is getting the permits obtained for the buildout to cure this violation. Since there are detailed reports, he felt that it could be done. He said that FDG knew about the expired permits when they bought the properties.

The Special Magistrate said that he would rather continue all of these cases so that they could be globally resolved in one negotiated document brought back to him and if things are not done, then fines, setting an amount, would commence. This should not be done piecemeal as it is a complicated project. There are a lot of properties. The Special Magistrate ordered continuation of this case until the May 25, 2017 Hearing when they are to bring back a negotiated timetable with dates for specific events like permits, etc. This would be like a Stipulated Agreement for Compliance. If those dates are not met, then fines will commence. He further ordered \$100 Administrative Fee for today's hearing due in thirty days by May 29, 2017 (which was later rescinded because this case was continued). Mr. Morell said they could easily get us the full report on the form required along with the application fee for the 50-year inspection and the timetable for the project.

Ms. Banyas clarified that for the first case heard today, #16120011, the fifty-year inspection was not in compliance. The Town anticipates the report per the final order from today's hearing being easily done. The rest of the cases will be continued with some not fully heard today. Administrative Fees could be minimized or waived for cases not fully heard but it is up to the Special Magistrate. She would like to read into the record the violations that remain and simply state that all others are in compliance. For the second case heard today, #16120054, it has not complied for a single violation of expired permits.

ITEM #V.30

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)

Ms. Banyas said that three of the violations for case #16110010 remain uncomplied (Section 6-36(a), Section 6-36(c) and Section 6-36(e)). The other four are complied. .

ITEM #V.32

***TAKEN OUT OF SEQUENCE**

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.

Ms. Banyas said that expired permits are not complied.

ITEM #V.27

***TAKEN OUT OF SEQUENCE**

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.

Ms. Banyas said that expired permits are not complied.

ITEM #V.31

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)

Ms. Banyas said that three of the violations for case #16120001 remain uncomplied (Section 6-36(a), Section 6-36(c) and Section 6-36(e)). The other four are complied.

ITEM #V.26

***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)

Ms. Banyas said that there are three violations for case #16120002 which remain uncomplied (Section 6-36(a), Section 6-36(c) and Section 6-36(e)). All others are complied.

It was clarified that the Special Magistrate ordered just one \$100 Administrative Fee for all seven cases which would be due May 29, 2017.

Special Magistrate Clerk Jhanelle Campbell will now call the cases from the sign-in sheet.

COMPLIED/FINDING OF FACT

ITEM #V.10

***TAKEN OUT OF SEQUENCE**

Case #: 17030008 – Vacation Rental
Property Owner: 3230 S Terra Mar Drive LLC
Address/Folio: 3230 S Terra Mar Drive
Code Section(s): Chapter 10 – Garbage and Refuge Section 10-30
Chapter 30 – Unified Land Development Regulations
Section 30-327(i)4
Chapter 30 – Unified Land Development Regulations
Section 30-327(l)1

Inspector Banyas testified that this is a registered vacation rental property. It is a single-family home. On March 14, 2017 a Notice of Hearing/Notice of Violation was sent to the owner. We did not receive the green card back. The property was posted on March 15, 2017. Copies were sent to the vacation rental agent and hand delivered to the agent at the property. She said that a violation was for more than ten people occupying the property overnight. This was evidenced by the large number of cars which is also a violation. There will be testimony from a neighbor who is here to speak regarding this property. The third violation is for trash bags placed on the lawn and not in the container. On March 8, 2017, Ms. Banyas inspected the property around 7:30AM and observed eight vehicles parked in the driveway and one was parked off the driveway obstructing traffic. Ms. Banyas answered the Special Magistrate that there are four bedrooms. She further answered the Special Magistrate that the maximum number of people allowed in this vacation rental property is ten at any time.

On March 8, 2017 there were eight vehicles in the driveway. Four of the cars were on the contract and belong to the eight people on the agreement. She has photos documenting all the license plates and does not know who the other four cars belong to. She called the vacation rental agent and advised her that the four cars had to be removed and they were. She has a photo documenting the garbage overflow. A walkthrough due to the violations was conducted on Friday, March 10th, which did not show any violations. She was also able to see the posted rental contract. She showed her photos to the respondents. Ms. Banyas explained what was in the photos plus a letter from a neighbor who could not attend this hearing but wanted to write about her experience. The Special Magistrate accepted them into evidence as Town's Composite Exhibit. There was no complaint about noise but the violations are in regard to parking, trash bags on the lawn and plenty of evidence that more than 10 people were in the house.

The property manager, Annika Thibaut, said that there were ten people renting during that time period. They were younger people who each had a car. She said there is no limit for the amount of cars parked. They have already updated the parking sketch to allow more cars to park. There were never over ten people in the home. When she got a call about the garbage bags on the ground, her husband went by to pick them up. Ms. Banyas said that was resolved. Jack Thibaut, Annika's husband and colleague, verified that he retrieved the garbage bags. Ms.

Banyas was requesting that the Town obtain a finding of fact that the violations did exist and should these violations re-occur in the future on that property, that they may be considered a repeat violator and may have immediate fines assessed. Ms. Banyas explained that the ordinance states that only the number of vehicles shown in the parking sketch submitted and approved along with the vacation rental contract are allowed.

Mr. Thibaut said they pay a fee every year for almost \$1,000 to have people rent. He does not understand why renters having guests especially during the day should be a problem. Ms. Banyas said that there is no one who owns the house to control anything happening from more than ten people. It is a lot of extra activity that the neighbors have to endure. Ms. Thibaut said there was no confirmation about more than ten people staying overnight and there was no noise complaint. The Special Magistrate stated that Ms. Banyas has established her case. The Special Magistrate told the property manager that if Ms. Banyas brings her case back in the future with evidence, she will get to rebut it. The Special Magistrate called members of the public who wished to speak. John Graziano testified that he lives across the street from another property that the property manager and her husband manage. He observed fifteen people in 3221 Spanish River Drive. He was told that they go between 3230 S Terra Mar Drive and 3221 Spanish River Drive. He feels that the property manager must have lax rules. People do not always stay for seven days. Sometimes it is only for overnight. We need some kind of control over vacation rentals. If the owners and real estate people abide by the vacation rental rules, it will be better for the Town's citizens. Mr. Thibaut said the people who went back and forth between the two properties actually rented three properties on the same island.

Ms. Banyas said that the three violations have been corrected and are in compliance. The Special Magistrate explained that they have to get control over the rental properties because if this case comes back in the future, he will be very strict. If a future case is proven, he would impose large fines to get someone's attention. The Special Magistrate ordered a finding of fact that if the case comes back for the same violation(s) at the same home and it is proven, then the property owner could be deemed a repeat offender and fines could be immediately assessed.

ITEM #V.9

***TAKEN OUT OF SEQUENCE**

Case #: 17030006 – Vacation Rental
Property Owner: 3221 Spanish River Drive LLC
Address/Folio: 3221 Spanish River Drive
Code Section(s): Chapter 19 – Traffic and Motor Vehicles Section 19-21(b)(4)
Chapter 30 – Unified Land Development Regulations
Section 30-327(i)3
Chapter 30 – Unified Land Development Regulations
Section 30-327(l)1

Inspector Bethany Banyas testified that as to notice on March 15, 2017, the Notice of Violation/Notice of Hearing was sent to the owner of record and copies were sent via certified mail to the vacation rental agent as well as the registered agent for the LLC. The green card was received by the Town from the registered agent of the LLC. We also posted the property on March 15, 2017 to complete service. The violations observed were on Tuesday, March 7, 2017. This was Ms. Banyas' first response to the property at that time. On March 8, 2017 she conducted a scheduled inspection. She said that the three violations were in compliance now. She is here today to establish finding of fact to establish history on this property. The first violation was for a commercial vehicle with seating capacity for twelve stayed at the property at night for at least one occasion between March 4th and March 11th which was the contracted

date. Ms. Banyas said that she has the testimony of people regarding this. Ms. Banyas saw it herself. Another violation was for more than ten people occupying this property overnight on at least one occasion during the rental period. Ms. Banyas answered the Special Magistrate that there are residents here to testify to the overnight stay of more than ten people. Another violation is for the license plates for the individuals included on the document were not on the rental agreement. The commercial vehicle was not listed at all. Ms. Banyas answered the Special Magistrate that commercial vehicles are not to be parked overnight in the driveway. She further answered the Special Magistrate that these violations are not for an excessive number of vehicles observed. Ms. Banyas stated that the occupant apologized to her stating the commercial vehicle was there overnight only one time.

Ms. Banyas said that she was notified by the Development Services Director Linda Connors that BSO was called out to the property on the night of March 5, 2017 – morning of March 6, 2017 regarding a noise complaint. She has a copy of that e-mail with a narrative of the report. She said that the Town is requesting a finding of fact for the three violations. She showed all her evidence to the respondents. She said that one piece is a letter from a resident who wished for the letter to be read and the Special Magistrate read it to himself. Ms. Banyas explained what was in her packet of evidence. The Special Magistrate entered the packet into evidence without objection as Town's Composite Exhibit.

Annika Thibaut asked if there were any other violations for this home and Ms. Banyas said there are two other violations for this property but not included in this one because the inspection talked about from this case showed three violations. Ms. Thibaut explained all that she does to ensure compliance. She explained that license plates may appear on an addendum because if there is a rented car, that plate number may not be known at the time of contract signing. She had eight people confirmed for the property which was the maximum amount of people staying at the home. The guests told that to her and license plate numbers were on the addendum. The commercial vehicle was a friend who was visiting them. She answered the Special Magistrate that the commercial vehicle stayed overnight. The guest told her it was parked during the day and it was moved that day. Every time she was at the property, there were no more than eight people. Mr. Thibaut testified that he was called by Ms. Banyas about the commercial vehicle. He called over to the renters and Mr. Thibaut wound up moving it himself.

A gentleman spoke and said that this property does not have four bedrooms. He does not know how many bedrooms, but not four. He said it is a small house. He did say that Mr. and Mrs. Thibaut are there a lot. He said that there are 170 houses on the island. Seventy percent are in Lauderdale-By-The-Sea. Those houses are all covered under the vacation rentals. The other side is Pompano and he is unsure about this side.

Ms. Banyas was asking for a finding of fact regarding the commercial vehicle parking overnight, regarding the more than ten individuals at the property overnight, and regarding the license plates not being present on the rental contract as required. The license plates violation was corrected later. Ms. Banyas answered the Special Magistrate that Annika and Jack Thibaut have been most pleasant for the most part. The Special Magistrate ordered a finding of fact because Inspector Banyas proved that the violations happened. He said that if the violation(s) reoccurs, the Town would have to provide some type of evidence and the Thibauts would be able to rebut, and the property could be deemed a repeat violator and fines could be immediately assessed. He warned that he would be very strict with fines. He explained what neighbors have to endure.

Ms. Thibaut asked Inspector Banyas what triggered an inspection of the rental property because when the police came, the music was turned down and no citation was issued. Ms. Banyas answered that pursuant to the Town's Vacation Rental Ordinances, the Town Manager or his designees are allowed to institute protocols for the enforcement of these violations. The walk through of a property is not done at every violation that is found. A walkthrough of a property would be triggered by something that indicates further inspection would be needed. For example, for simply overflowing the trashcans, this would not necessarily trigger a violation because the violation could be easily rectified. What could trigger an inspection would be a large number of parked vehicles which could indicate more people than allowed inside of the home. Regarding the police incident, there was no one available who was trained and licensed to operate the noise reading equipment. There was no documentation on the decibel reading and that is why noise level was not a violation in this case. This triggered her going out to the property because this is a vacation rental property and she was notified that something happened there.

ITEM #V.7

***TAKEN OUT OF SEQUENCE**

Case #: 17030009 – 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 said that service was the same as the previous case agenda #9. The violation notice was hand delivered to the vacation rental agent on the property as well as sent via mail and certified mail. The Town only received the green card back from the registered agent for the property. The property was posted on March 14, 2017. This violation was noted and subsequently reviewed and confirmed a few days later. The violation of the pool not having an enclosure was discovered during her scheduled walkthrough on March 8, 2017. There was a screen but it was taken down because there is a fence. She checked and there was no demo permit obtained. This violation was done prior to the agents taking over the property. They have to obtain a demolition permit and have that inspected and closed out. She said that because this is a vacation rental property, occupants cannot be in there when there is a building code violation until it is corrected. She was asking for a finding of fact that a violation did exist on this property but that it came into compliance. If this violation should occur in the future, it could be deemed a repeat violator and fines could be immediately assessed.

Ms. Thibaut said that they did apply for a vacation rental license in 2016. Code Enforcement and the Fire Marshall walked the property at that time. We submitted a photo of the backyard and front yard of the home. Their picture in the file matches what we submitted. The Town approved this property in 2016 and nothing changed. It is unfortunate that the violation was found now and not prior to their taking over the property. They did apply for a demolition permit. The Special Magistrate does not think this violation would ever occur again since they applied for a demo permit. The Special Magistrate ordered a finding of facts that if this violation re-occurs in the future, it could be deemed a repeat violation and fines could be immediately assessed. He explained again that there were no charges and no costs at this time.

ITEM #V.8

Case #: 17030011 – Vacation Rentals
Property Owner: 3221 Spanish River Drive LLC
Address/Folio: 3221 Spanish River Drive
Code Section(s): Chapter 30 – Unified Land Development Regulations

Section 30-327(b)

Inspector Banyas said that service was the same as for agenda case #9. The violation notice was hand delivered to the vacation rental agent on the property as well as sent via mail and certified mail. The Town only received the green card back from the registered agent for the LLC. The property was posted on March 14, 2017. Ms. Banyas said that they have received complaints about this property in the past but unverifiable due to the fact that we did not have plans for the original building. The complaints stated that additions/conversions have been done to the property. This will be coming up at the next hearing. They are working on that and she will be back next month.

Today's violation is in reference to non-compliance with the code because there is currently unpermitted demolition on the property. They were technically not allowed to have anyone on the property since it is a vacation rental property which is in violation of the building code. The violation for this hearing is for allowing occupancy of the dwelling when it was under violation of the building code. She has evidence to show that the property was occupied. Ms. Banyas said that they came into compliance and the Town was requesting a finding of fact. She showed her evidence to the respondents, Annika and Jack Thibaut.

Annika Thibaut said that the walkthrough was on March 8. She had guests check into the home before she received the paperwork. Mr. Thibaut said he came in on the Monday following the written e-mail and was told by Jack Morell that they were not sure about needing a demolition permit. So he came back on Tuesday and was told that he did need the demo permit. They had people already in for a week's stay and they could not kick them out on the streets. They have not had anyone else rent the property until the demo permit was done. Ms. Banyas confirmed this statement. Ms. Thibaut said that the Town did approve their license and never said there were any building code violations and that is why they rented the property. Once we were told that we could not have anyone else move in, we did not. Ms. Banyas said that the future case is that the previous owner built another room that may or may not be permittable. Mr. Thibaut said that they contacted a contractor who will pull a permit for that room. Ms. Banyas said that she was informed about that. The Special Magistrate ordered the finding of fact that if this violation re-occurs in the future, it could be deemed a repeat violation and fines could be immediately assessed.

NEW BUSINESS

ITEM #V.23

***TAKEN OUT OF SEQUENCE**

Case #: 17030012 – Citizen Complaints

Property Owner: Karvin, Mitchell

Address/Folio: 1910 Waters Edge

Code Section(s): Chapter 19 – Traffic and Motor Vehicles Section 19-21(b)(4)

Inspector Sharon Foster testified that the property is a single-family home. The property was posted and an Affidavit of Posting is in the file. The property was in violation for parking of commercial vehicle and personal watercrafts at the property overnight. As of today, the property is in compliance. The jet skis were removed from the property on March 27, 2017. There was a box truck observed that was also removed. There was also a passenger van there that had the logo on it for the company. The passenger van is allowed to be parked. The problem was with the logo. The solution would be to have the logo covered or the whole van covered. When she went to the property today, the violations were removed and the property is in compliance. Ms. Foster was asking for a finding of fact that if this violation(s) re-occur in the future, it could be deemed a repeat violation and fines could be immediately assessed.

The Special Magistrate explained to the respondent that if it does come back in the future, Ms. Foster would present her case but Mr. Karvin would be able to rebut. Mr. Karvin explained that he was new to the area and saw a boat and a little trailer at a different property and did not know what he had on his property was a violation. He is learning the rules. The Special Magistrate said that the finding of fact is entered and that there are no fines or fees today. Mr. Karvin asked for the people who are homesteaded and living on the island if there is a residential parking permit, so they do not have to pay to park to go up the street. Mr. Karvin was given a name of a Town Hall employee who would be able to explain all this to him.

CERTIFICATION OF LIEN

ITEM #V.33

***TAKEN OUT OF SEQUENCE**

Case #: 17020009 – Overflowing Dumpster
Property Owner: Anglin Fam Tr % Raymond Anglin
Address/Folio: 14 E Commercial Boulevard
Code Section(s): Chapter 10 – Garbage and Refuge Section 10-31 (4)
Chapter 10 – Garbage and Refuge Section 10-31 (5)

Inspector Bethany Banyas testified that this property encompasses several smaller units in the downtown area. It includes the dumpster that is used for the pier, café, Mulligans, etc. The property ownership is Anglin Family Trust c/o Raymond Anglin. Ms. Banyas said that the dumpster issue has been back in front of the Special Magistrate several times regarding the maintenance of the dumpster. During some of the year, it is not much of a problem. During season, the situation gets worse and worse. The last case was heard on January 26, 2017. There was a finding of fact that the violation did exist. She said that the Special Magistrate did state that if the violation(s) re-occurred they could be deemed a repeat violator and fines could be immediately assessed to the property. The Town would expect the normal \$500/day/violation fine assessed as prescribed by ordinance. The dumpster area has been littered with overflowing trash causing a sanitary hazard as well as fact that the lids are not kept closed. She has many photos for this case which she showed to the respondents. She said there are twenty-five verifiable days as documented for this repeat violation(s).

Mr. Marchelos wanted to know the dates the pictures were taken. He said some shots are accurate and some are inaccurate. The dumpster is enclosed in a private area and they try their best. Ms. Banyas said that she has seen Mr. Marchelos by the dumpster a handful of times in the morning. Ms. Banyas said that shortly after Mr. Marchelos leaves the property becomes non-compliant. This violation is not due solely to Mr. Marchelos ability to maintain the dumpster. This is due to (about 90%) the workers who are working the pier and the businesses and who do not know how to maintain the dumpster. Ms. Banyas said that she receives constant complaints about this dumpster. The Special Magistrate suggested that the respondents take out the photos that they disagree with and then the case would be recalled. Mr. Marchelos said that this is an ongoing issue but people do clean the dumpster daily. The Special Magistrate said to separate the photos. Pull out the ones displaying a date and show the non-compliance. Then he would recall this case and they would discuss only the photos that they agree to show the correct date(s) and violation(s). Ms. Banyas asked to be allowed to look over the discard pile to ensure photos in it are not relevant to this repeat violation. The next case #17020003 was called and then a few more were heard. After hearing case #16120067, then this case was recalled.

Inspector Bethany Banyas explained that she had a stack of the photos she had for evidence selected by Spiro Marchelos and Terry Kyle (fishing pier supervisor) as “non-discards” to be

submitted to the Special Magistrate. She would call that stack "violations". She gave those photos to the Special Magistrate who asked Mr. Kyle and Mr. Marchelos to look at them again. Mr. Kyle testified that he has an employee specifically assigned for taking the trash from the pier to the dumpster. He does it between 2 in the morning and 5 in the morning each day seven days a week. At that time, he also picks up excess trash that is around there from the pier, café or one of the other six tenants and closes the dumpster lids. During a period of time, they had malfunctioning dumpsters. The bottoms were rusted and trash fell out and the lids would not close. He did ask the trash company on four occasions for new dumpsters and he said that they said "good luck". Finally they got different, not new, dumpsters. This particular time was during peak season. There is no evidence that they did something wrong but simply too much trash to fit in the dumpsters. In one photo from March, there was a bag on top of the dumpster which was just laziness. Some of the other photos he is not sure if they are violations. Mr. Kyle said he pays his employee, David, for doing the dumpsters. He also has a guy who pressure cleans at least once a week. The dumpsters are cleaned and checked every day. When the dumpsters are overflowing, the lids will not close. He thinks the garbage is picked up six days a week or maybe seven by Waste Pro. During season, Mr. Kyle said, there is too much trash for the three dumpsters.

Mr. Kyle said that he started supervising when the pier reopened. Mr. Kyle said that Waste Pro does not work for us. If a trash bag falls upon collection, Waste Pro will not pick it up. Ms. Banyas answered the Special Magistrate that there are ten photos in the "non-discarded" stack of photos. She said that they combined photos because many of them were taken on the same day. Each day's photos were stapled together and the stack now contains ten individual days. These ten days are date stamped and Ms. Banyas testified that they show a violation and the respondents were not contesting that. Inspector Banyas said that there is another stack of photos from which she thinks show more days of violations.

Mr. Kyle said that to take the photos, the doors had to be open. Ms. Banyas agreed. Ms. Banyas said that today's violation is not about an open or shut dumpster enclosure but rather that the dumpster area is littered with overflowing trash causing a sanitary hazard and that the dumpster lids were not closed. The photos selected by the respondents were given to the Special Magistrate. He asked Ms. Banyas and the respondents to approach as he showed them which he felt depicted violations. Inspector Banyas gave the Special Magistrate the packets of photos from four other days that she thought depicted violations. While the Special Magistrate perused them, she spoke about the personal experiences she had the last few months having to visit these dumpsters. She testified that these are one of the worst dumpsters in the Town's downtown area. She said that the majority of the issues that she has seen are related to two items. The dumpster area needs to be pressure washed regularly. She said that the owner of the property (Anglin Family Trust) upon which the dumpster is located is responsible for cleaning the dumpsters (which is not the violation cited today).

The Special Magistrate assessed that the evidence showed eight days of violations. Ms. Banyas said that there were two violations each day for overflow and unsanitary conditions and the other violation was for the lid not being closed. The Special Magistrate ordered that the fine is \$4,000 for eight days of violations at \$500/day to be paid within four months, by August 25, 2017, and it could be paid either in full or \$1,000 per month until fully paid by August 25, 2017. Inspector Banyas asked for \$200 Administrative Fee for today's hearing. The Special Magistrate also ordered \$200 Administrative Fee to be paid by August 25, 2017.

CERTIFICATION OF LIEN
ITEM #V.39

***TAKEN OUT OF SEQUENCE**

Case #: 17020003 – No Vacation Rental
Property Owner: Slough, Edward
Address/Folio: 3261 Oleander Way
Code Section(s): Chapter 10 – Garbage and Refuse Section 10-27(a)(1)
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)

Code Inspector Sharon Foster testified that this case was before the Special Magistrate last month. A final order was issued requesting that applications be submitted for vacation rental and she explained the reverse order. They were to accept his applications and then wait for his state licenses. The respondent had decided on April 14, 2017 that he would no longer be doing vacation rental and he would only rent for long term. As of right now, the case is technically still in violation because his BTR (business tax receipt) application was submitted today. He did pay the fee for that. Since he would not be doing vacation rentals, Ms. Foster advised him that the vacation rental advertisement had to be taken down in order to bring this into compliance. She reported that the advertisements are still up. She found the advertisement on three websites. On AirBnB, it states six month rental but the calendar allows you to choose three days and a pop-up states that there is a three-night minimum. Mr. Slough said that he has no control over this. He put in for 180-day stay with AirBnB and VRBO. Whenever he gets a request that does not comply, he lets them know it does not comply. He has no control over the popups.

Ms. Foster said that also on the VRBO ad, it mentions \$395/week. It also states the minimum stay is one day to one-hundred eighty days. Ms. Banyas said she would be more than happy to work with Mr. Slough regarding these two websites. Ms. Foster said that at the last hearing it was stated that if he did not come into compliance then fines would start running from April 14, 2017. The Special Magistrate said he would not impose any fines. Ms. Foster said that he has until May 24th to pay the previous \$50 Administrative Fee. The Special Magistrate said he would waive the \$50 Administrative Fee because he has changed his entire way he was going to rent his property. Ms. Banyas stated for the record that the Town does not revoke an Administrative Fee. The Special Magistrate ordered the \$50 Administrative Fee waived as this is a hardship case. The Special Magistrate ordered that Mr. Slough work with Ms. Banyas to clean up the websites and to revise the final order with a new comply-by date of May 5, 2017. As of today, there are no fines and no costs.

COMPLIED/FINDING OF FACT

ITEM #V.6

***TAKEN OUT OF SEQUENCE**

Case #: 17030014 – Nuisance
Property Owner: 230 Tropical Shores Dev LLC
Address/Folio: Guardian Court
Code Section(s): Chapter 6 – Building and Building Regulations Section 6-36(f)
Chapter 6 – Building and Building Regulations Section 6-8(f)

CERTIFICATION OF LIEN

ITEM #V.25

***TAKEN OUT OF SEQUENCE**

Case #: 17030013 – Nuisance
Property Owner: 230 Tropical Shores Dev LLC

Address/Folio: Guardian Court
Code Section(s): Chapter 6 – Building and Building Regulations Section 6-36(f)
Chapter 6 – Building and Building Regulations Section 6-8(d)1-4
Chapter 6 – Building and Building Regulations Section 6-8(a)
Chapter 6 – Building and Building Regulations Section 6-8(d)(I)

Inspector Bethany Banyas testified that she will start with case #17030014. She said that this is a first-time violation. The Town was not asking for fines or fees today, just to establish history on the property for the future. The violation was for a construction fence in poor condition. Several parcels were demolished and combined into one parcel. She answered the Special Magistrate that this is west of the Holiday Inn. The construction fence was in poor condition for several days with tarp hanging and torn. This has happened before on the property but was never in front of the Special Magistrate. Since this has happened several times, we are requesting a finding of fact. She said that service was obtained by certified mail sent to the address of record to the property owner of record. Green cards were received from them as well as from property management. She has copies of pictures for violation 6-36(f) which she showed to the respondent and then to the Special Magistrate. There was no objection.

Kai Stadler, one of the developers of Sky 230 (twelve high-end townhomes), said that the fence has been completely replaced since the picture was taken. Ms. Banyas said that they have switched builders and things are moving along. The Special Magistrate ordered a finding of fact for the construction fence and spoke about if this should come back.

Inspector Bethany Banyas said that the second case #17030013 has been before the Special Magistrate before with a final order. This one is a repeat violation for previously found violations for lack of a construction container on the site, accumulation of trash, debris, etc. She said that they complied by obtaining a dumpster container. However, the dumpster seems to have disappeared. They went before the Town Commission a few weeks ago to obtain a mitigation for the fines that accrued for these two items. She has photos showing the violations for a few days (March 16, March 18, and March 22, 2017). Compliance was reached on March 23, 2017. She showed her pictures to the respondent. The Town was requesting three days (that is what was documented) for non-compliance at \$500/day. The Town was requesting \$150 Administrative Fee plus the \$1,500 fine. The respondent did not have an objection to the three photos which were given to the Special Magistrate.

Kai Stadler explained his unique predicament. They bought that site with construction that was abandoned. They have to maneuver around an existing foundation. They were going to pour cement and the cement truck could not go in between the buildings, if there is a garbage container. They postponed delivery of the container for three days to allow the cement truck to pour the foundation and a bobcat to smooth the dirt, etc. The Special Magistrate asked about his discretion. Ms. Banyas said that it is the responsibility of the property owner to maintain the property trash free. The Special Magistrate mitigated the fine and ordered \$500 fine (instead of \$1,500) plus \$150 Administrative Fee for a total due of \$650 paid within fifteen days, by May 12, 2017. Ms. Banyas asked to establish a finding of fact that the violations did exist and the Special Magistrate ordered a finding of fact that if this violation(s) re-occur in the future, it could be deemed a repeat violation and fines could be immediately assessed.

ITEM #V.35

***TAKEN OUT OF SEQUENCE**

Case #: 17030005 – Landscape Violations
Property Owner: Johnson, Danielle
Address/Folio: 1724 Bel Air Avenue

Code Section(s): Chapter 6 – Building and Building Regulations Section 6-41(a)(18)
Inspector Sharon Foster testified that the property is a single-family home. A Notice of Repeat Violation and Notice of Penalty Hearing were posted on the property and a copy of the Affidavit of Posting is in the file. Notice was also sent via certified mail on March 11, 2017 but service was not received. The violation is for maintenance of exterior premises for overgrown grass. This is a repeat violation previously cited on final order #16090017 issued at the Special Magistrate Hearing of October 27, 2016. The Town was to cut the grass on a continuous basis as long as the violation exists and the property owner, Danielle Johnson, remains the same. The grass was observed and documented starting on March 11, 2017 through March 15, 2017 for a total of five days. The Town abated the nuisance on March 15, 2017. The Town requests the maximum daily fine \$500/day totaling \$2,500 plus \$150 Administrative Fee for a total of \$2,650. On March 11, 13, 14, and 15, Ms. Foster took pictures of the property which accurately depict the condition of the property and requested that they are entered into evidence. The Special Magistrate accepted the photos into evidence as the Town's Composite Exhibit. He ordered \$2,650 (\$500/day fine for five days out of compliance equals \$2,500 plus \$150 Administrative Fee for today's hearing).

CERTIFICATION OF ABATEMENT COSTS

Special Set "A" (ITEM #V.)

Re: Town Abatement Lien
Site Address: 1724 Bel Air Avenue
Property Description: 494307010140
Legal Description: BEL-AIR 32-10 B LOT 14 BLK 1

Case Number: N/A
Subject: Overgrown grass and weeds on vacant property

Inspector Sharon Foster testified that per a previous order issued on case #16090017 from the October 27, 2016 Hearing, the Town has a continual order to abate the violation. On March 11, 2017, the Town established the violation and abated it on March 15, 2017. The cost of the abatement is \$647. The Town would like to request that the abatement costs be certified today and a lien would be recorded against that property for the total costs with the County. She requested to enter into evidence a copy of the \$647 invoice for the record and she gave her documentation to the Special Magistrate. The Special Magistrate ordered certification of the \$647 abatement costs.

ITEM #V.36

Case #: 16030018 – Nuisance
Property Owner: Johnson, Danielle
Address/Folio: 1724 Bel Air Ave
Code Section(s): Chapter 10 – Garbage and Refuse Section 10-27(a)(1)
Chapter 20 – Utilities Section 20-16(a)
Chapter 6 – Building and Building Regulations Section 6-37(a)(1)
Chapter 6 – Building and Building Regulations Section 6-41(a)(18)
Florida Building Code Section 105 Section 105.1 Required

Inspector Sharon Foster testified that the property is a single-family home. Notice was sent via certified mail and service was not obtained. The property was posted and the Affidavit of Posting is in the file. The property is in violation of Section 20-16(a) for connection to the sanitary sewer system which is required. This property was originally cited on March 22, 2016 and the final order was issued on April 24, 2016 to come into compliance by connecting the

sanitary sewer system by May 25, 2016. The violation still exists and the Town was requesting a re-certification of fines with a new daily fine for failure to connect to the sewer system. The Town was asking for an upgraded daily fine of \$500/day back dating the effective date to July 26, 2016 per ordinance which she read into the record regarding the penalty of violation. The total amount from July 26, 2016 until today is \$138,000 for a total of 276 days. The fine will continue to accrue until they come into compliance. She was also requesting \$150 Administrative Fee for today's hearing which will total \$138,150 certifying for today. The Special Magistrate ordered certification of \$138,150.

ITEM #V.37

Case #: 16120067 – No Garbage/Trash Service
Property Owner: Morran, Christine Soller Robertson, Robert
Address/Folio: 2062 Ocean Mist Drive
Code Section(s): Chapter 10 – Garbage and Refuse Section 10-27(a)(1)

Inspector Sharon Foster testified that fines started running on the property on March 28, 2017 at \$10/day for one violation. The property is not in compliance and out of compliance for 31 days. The fine amount as of today is \$310. There are \$100 Administrative Fee from the previous hearing plus \$75 Administrative Fee for today's hearing for a total of fines and fees to certify today of \$485. The Special Magistrate ordered the certification of \$485.

COMPLIED/FINDING OF FACT

ITEM #V.11

***TAKEN OUT OF SEQUENCE**

Case #: 17020007 – Recreational Vehicles & Boat Violations
Property Owner: Penksa, Dave & Kira
Address/Folio: 1612 Bel-Air Avenue
Code Section(s): Chapter 19 – Traffic and Motor Vehicles Section 19-21(b)(4)

Inspector Bethany Banyas testified that this property was brought into compliance. Today is for a finding of facts. The property owners live out of town. A family member lived at this property for a few months and brought his boat and trailer. The trailer is enormous and part of it was sticking out of the carport which was called in by multiple residents. The property owners said that this would never happen again. Ms. Banyas requested a finding of fact that the violation did exist and if it should re-occur in the future it could be deemed a repeat violation. Today there are no fines and no fees. The Special Magistrate ordered the finding of fact.

OLD BUSINESS

ITEM #V.17

Case #: 16120005 – Landscape Violations
Property Owner: Loggans, Susan E & Watson, Denis L
Address/Folio: 4421 Seagrape Drive
Code Section(s): Chapter 30 – Unified Land Development Regulations
Section 30-477(a)

Code Compliance Inspector Bethany Banyas testified that this case was before the Special Magistrate several months ago. The former owner declined to correct the violation. The new owners attempted to get it wiped out. The Town requested a final order because there were no permits pulled and was unsure about what would happen on the property. In the time that passed, Ms. Banyas spoke with the Building Department and Development Services. The new owners proceeded diligently with demolition and renovation and obtained several permits that are active and valid. These will trigger landscape plans automatically. The Town no longer

needs the safeguard of the final order and wanted to consider this case closed. They will pursue enforcement action in the future if necessary. Ms. Campbell said that he came in today with landscape plans. Ms. Banyas suggested an order to vacate considering this case closed. The Special Magistrate ordered an order to vacate. There are no fees or fines associated with this case #16120005.

NEW BUSINESS

ITEM #V.19

Case #: 17040004 – Nuisance
Property Owner: 4326 Ocean Drive LLC
Address/Folio: 4326 N Ocean Drive #1-4
Code Section(s): Chapter 30 – Unified 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 Bethany Banyas testified that this is a request for a final order on a vacant, multi-family small property. It is on the main drive of Ocean Drive. The property owner is in Thailand now. Their communication is via e-mail. The three violations are health safety issues. She is asking to be able to abate. The property owner was served a Courtesy Notice in early March 2017. Then the Notice of Violation was sent and the property was posted eleven days ago. All three violations are health safety issue, since the landscape is overgrown and not well kept and you cannot see the street number, trash and litter are all around the property including a toilet in the side yard, and there is an infestation of insects (bees, wasps or both). She showed her photos to the Special Magistrate who entered them into evidence as Town's Composite Exhibit. She answered the Special Magistrate that the property is vacant and in foreclosure. The owner wants to correct everything but only when he is back here in May.

She said that the Town was requesting \$150 Administrative Fee and the Special Magistrate's authorization to abate all three items and to charge the costs to the property as a lien at the next hearing. The Town also requests that should the violations be corrected by the respondent before they get there, that they still retain the Special Magistrate's permission to go on the property in the future to abate the violation(s) and then bring this back for certification of costs without the future need for presentation. The Special Magistrate asked for a twenty-one day notice, if there would be no presentation at a future hearing. Ms. Banyas clarified that if 21 days pass after notice of the re-occurring violation(s), the Town could abate the property with photographic documentation of future violation(s), without having to present this case again. She also clarified that for the order, compliance is within five days, by May 2nd, and the Town's abatement could start May 3, 2017. The Special Magistrate informed Inspector Banyas that there is a Broward County organization that would abate bees for free. If the bees are not Africanized, they want the opportunity to save the bees. Ms. Banyas said that if the free Broward County group cannot do it, they have someone who does this humanely and transports the bees and not exterminate them.

The Special Magistrate ordered compliance within five days, by May 2, 2017, or the Town could abate the property and assess the costs to the property as a lien. Also ordered is that if the violation(s) re-occur, that after 21 days of notice of the re-occurring violation(s), the Town could abate the property having photographic documentation of future violation(s), without having to present this case again and costs would be assessed to the property as a lien at the next hearing. He further ordered \$150 Administrative Fee.

CERTIFICATION OF LIEN

Case #: 17010002 – Landscape Violations

Property Owner: Bell, Robert K

Address/Folio: 4521 N Ocean Drive #1-6

Code Section(s): Chapter 6 – Building and Building Regulations Section 6-41(a)(18)

Inspector Bethany Banyas testified that this is just an extension request. She said that service was by posting after the green card was not returned. Mr. Bell was here a few months ago and is very close to getting his tree removed. She suggested by June 21, 2017 to have the Town permit and have the tree removal done. If not, this case would be heard at the June 22nd Hearing. She said that the original Administrative Fee was paid. The Special Magistrate now ordered full compliance by June 21, 2017.

VI. ADJOURNMENT

Not having any additional business to be heard, Special Magistrate Tom Ansbro adjourned the hearing on April 27, 2017 at approximately 8:34 p.m.

APPROVED BY:

ATTEST:

Special Magistrate Tom Ansbro

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

CERTIFICATION OF LIEN

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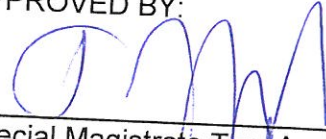
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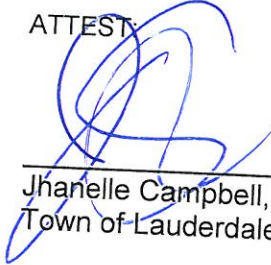
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ATTEST


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