

**MINUTES
FORT MYERS BEACH
Special Magistrate Hearings
Town Hall
2525 Estero Boulevard
Fort Myers Beach, FL 33931**

Doug Jim
Molly
Joe JK

Thursday, July 26, 2018

Hearing Examiner - Special Magistrate: Mr. Joe Madden

Mr. Madden swore in those providing testimony.
Mr. Jack Peterson, Town Attorney, represented the Town in cases with opposing counsel.

BEACH PATROL CASE TO BE HEARD:

Property Owner: Pamara Thornton
SUBJECT: Over Time Meter
CODE SECTION: Sec. 28- 51 (A)
LOCATION: Palm Ave. Meter # 204
BASE OFFICER: Nello Cernoia
REFERENCE NO: Citation # 73108302

Ms. Thornton was not in attendance. Mr. Madden ordered that a fine of ^{35.00}~~\$135.00~~ be assessed with \$175.00 in administrative fees.

MJ Property Owner: ISLAND WINDS CONDO
SUBJECT: LDC Section: 14-5 Repeat- Operating without a permit – office remodel
LOCATION: 6614 Estero Blvd
STRAP NO:
CODE OFFICER: Molly Jacobs
REFERENCE NO: CE17-0354

(This case was not on the agenda.)

Ms. Jacobs inspected the property on June 22, 2017 and found the following condition: repeat work without a permit – office remodel. She noted that the previous code case CE16-0488 found a violation and recorded a lien. The action necessary to correct the violation is to secure the required permit and inspections. The notice of violation and notice of hearing were sent to the owner on June 28, 2017 and they were claimed. The notice of violation and notice of hearing were sent to the registered agent on June 27, 2017 and they were claimed. A Stop Work Order was posted on the property June 27, 2017 and posted to the Town on June 30, 2017. The permit was finalized on March 21, 2018. If the hearing found a violation, the Town requested that the initial

order imposing a lien remain in effect. Ms. Jacobs read an email from Town Attorney Peterson informing the respondent of the re-hearing.

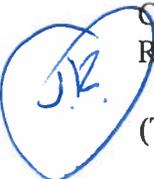
Mr. Barandt (sp.) represented the respondent. He stated that the respondent thought that they were cited for working without a permit, so they obtained the permit and finished the work. They did not think they had to appear at the hearing and it was an honest mistake. He requested that they go back to the original time that the order was imposed. He indicated that the hurricane hit during the timeline, which delayed the process.

Dennis Dubois stated that the permit was issued three days prior to the March 1, 2018 hearing and they started the work after the permit was issued. Mr. Barandt requested that the respondent be fined accordingly. Mr. Madden found that the petition for re-hearing was timely and he set aside the March 29, 2018 order as it was probably a mistake.

Ms. Jacobs requested a \$500.00 fine. Mr. Barandt agreed.

Mr. Madden ordered that the March 29, 2018 order be vacated and a new order be issued in the amount of \$500.00 to be paid by August 22, 2018.

Property Owner: LANI KAI LP
SUBJECT: LDC Section: 6-2, Section ff - Illicit drainage
LOCATION: 1400 Estero Blvd
STRAP NO:
CODE OFFICER: Joe Kontomanolis
REFERENCE NO: CE18-0447

 (This case was not on the agenda.)

Mr. Kontomanolis inspected the property on May 30, 2018 and found the following condition: illicit drainage. The action necessary to correct the violation was to pay the citation and refrain from illicit drainage. The citation was paid. A notice of hearing was provided to the owner on June 6, 2018 and it was claimed. Mr. Kontomanolis took pictures on May 30, 2018 that accurately reflected the condition of the property.

If the hearing found a violation, the Town requested a finding of fact for the property.

Mr. Barandt represented the respondent. He stated that the drain was set up to discharge into a pond, not directly onto the beach. He surmised that water could have breached the pond due to excessive rainfall. He indicated that the pipe had been rerouted.

Mr. Madden dismissed the case due to insufficient evidence for drainage directly onto the beach.

 Property Owner: PERSAUD PROPERTIES FL INVESTMENTS
SUBJECT: LDC Section: 6-111 Adopting FBC 105.1 Work w/out Permit - SFR
LOCATION: 3050/3056 Estero Blvd.
STRAP NO: 29-46-24-W1-00100-020A
CODE OFFICER: Molly Jacobs
REFERENCE NO: CE16-0644

Mr. Moon represented the respondent. He noted that Mr. Persaud was scheduled for a deposition with the Town Attorney. He suggested that they return in 90 days. The Town provided no

objection. Mr. Madden continued the case to October 25, 2018 based upon the ongoing civil litigation.

Property Owner: PERSAUD PROPERTIES FL INVESTMENTS
SUBJECT: LDC Section: 34-621 Operating w/out Permit - USE
LOCATION: 1046 Estero Blvd.
STRAP NO: 24-46-23-W3-00016-0000
CODE OFFICER: Molly Jacobs
REFERENCE NO: CE17-0707

Mr. Moon represented the respondent. He noted that Mr. Persaud was scheduled for a deposition with the Town Attorney. He suggested that they return in 90 days. The Town provided no objection. Mr. Madden continued the case to October 25, 2018 based upon the ongoing civil litigation.

Property Owner: PRESAUD PROPERTIES FL INVESTMENTS
SUBJECT: LDC Section: 30-5 Sign - Portable & Off-Premises
LOCATION: 1046 Estero Blvd.
STRAP NO: 24-46-23-W3-00016-0000
CODE OFFICER: Molly Jacobs
REFERENCE NO: CE17-0659

Ms. Jacobs noted that the case was brought before the Magistrate on May 31, 2018. A finding of fact was established and an order was issued citing the respondent in violation of sign – portable and off-premises. The respondent was ordered to obtain required permit and pass inspections. They were assessed \$425.00 in administrative costs. In event the violation was not abated by July 18, 2018, a fine of \$200.00 per day was to be imposed. As of July 18, 2018 no application had been submitted; however, as of July 25, 2018 an application was submitted and under review. Administrative costs have not been paid. The Town requested an order to lien.

Mr. Moon questioned when notice was provided about the hearing today. Ms. Jacobs replied that the recall notice was sent out by mail on July 18, 2018. It was not posted.

Mr. Persaud testified that the Town directed him not to send a check until after the application was approved. He stated that he did not pay the administrative costs.

Mr. Moon indicated that it was a fundamental due process violation because his client did not receive reasonable notice. He cited the applicable sections for notices. Less than seven days by mail was unreasonable and the dates conflicted.

Town Attorney Peterson withdrew the case and will renounce everybody.

Property Owner: MARKOVICH GEORGE & AMY
SUBJECT: LDC Section: 10- 101 Striping of Parking Lot
LOCATION: 1510 Estero Blvd.
STRAP NO: 19-46-24-W4-0070C-0020
CODE OFFICER: Joe Kontomanolis

REFERENCE NO: CE18-0258

Mr. Kontomanolis inspected the property on April 20, 2018 and June 4, 2018 and he found the following condition: striping the parking lot. The action necessary to correct the violation was to obtain a permit, pass inspections or remove the orange lines. The notice of violation was sent to the property owner via certified mail on April 25, 2018 and claimed. The notice of hearing was sent to the property owner on June 26, 2018 and it was claimed. If the hearing found a violation, the Town requested the \$250.00 citation be paid and a finding of fact with a fine per day pursuant to the code should the violation reoccur in the future. Administrative costs of \$275.00 were requested.

Mr. Moon stated that the paint was removed.

Town Attorney Peterson withdrew administrative costs of \$275.00 because the Town scheduled the appeal, not the respondent.

Mr. Madden ordered that the respondent pay the \$250.00 citation within 10 days.

Property Owner: MARKOVICH GEORGE & AMY
SUBJECT: LDC Sec. 34-3203 Operating Parking Lot w/out a USE Permit
LOCATION: 1510 Estero Blvd.
STRAP NO: 19-46-24-W4-0070C-0020
CODE OFFICER: Molly Jacobs
REFERENCE NO: CE18-0035

Ms. Jacobs withdrew the case.

Property Owner: BEACHFRONT ESCAPES LLC
SUBJECT: LDC Section: 6-111 Adopting FBC 105.1-Repeat- Work w/out Permit - Remodel
LOCATION: 1710/1740 Estero Blvd.
STRAP NO: 19-46-24-W4-0070A-0010
CODE OFFICER: Molly Jacobs
REFERENCE NO: CE17-0870

Mr. Moon represented the respondent and stated that the notice was posted on July 18, 2018, which gave them only seven days' notice. Mr. Madden questioned whether repeat violations required any notice at all. Discussion was held regarding notice. Town Attorney Peterson withdrew the case for renote.

Property Owner: ORLANDINI JOSEPH B + SHANNON M
SUBJECT: LDC Section: 302.10 Storage of Material
LOCATION: 455 Palermo Cr.
STRAP NO: 19-46-24-W4-0060D-0100
CODE OFFICER: Joe Kontomanolis
REFERENCE NO: CE18-0135

Mr. Kontomanolis stated that the case was brought before the Magistrate on May 31, 2018, a finding of fact was established and an order was issued citing the respondent was in violation of storage of materials. The respondent was assessed \$425.00 in administrative costs. In the event the violation was not abated prior to July 18, 2018 a fine of \$250.00 per day was to be imposed. As of July 25, 2018, the administrative fee had not been paid and the violation was abated. The Town requested an order to lien.

Mr. Moon requested that his client be given 10 days to pay \$425.00 in administrative costs. Mr. Madden ordered Mr. Orlandini to pay the administrative costs within 10 days or a lien would be filed.

Property Owner: ORLANDINI JOSEPH 1/2 + DICKEY
SUBJECT: LDC Section: 6-111 Adopting FBC 105.1 Work W/out permit- Expired
Permit ROF09-0076
LOCATION: 1666 I St.
STRAP NO: 19-46-24-W4-0070B-010B
CODE OFFICER: Joe Kontomanolis
REFERENCE NO: CE18-0014

JK

Mr. Kontomanolis stated that case was brought before the Magistrate on May 31, 2018. A finding of fact was established and an order was issued citing that he owner was in violation of work without a permit – expired. The respondent was assessed \$425.00 in administrative costs. In the event the violation was not abated prior to July 18, 2018 a fine of \$250.00 per day was to be imposed. As of July 25, 2018, the administrative fee had not been paid and the permit was still expired. The Town requested an order to lien.

Mr. Moon noted the notice was mailed on July 18, 2018, which was less than seven days prior to the hearing. He stated that Mr. Dickey lived in Ohio and proper notice was not given to him. Town Attorney Peterson withdrew the case for renounce.

Property Owner: GANIM GEORGE W + JOSEPHINE
SUBJECT: LDC Section: 6-111 Adopting FBC 105.1 Work w/out Permit - Electric
LOCATION: 1478 Estero Blvd.
STRAP NO: 19-46-24-W4-0070D-001A
CODE OFFICER: Molly Jacobs
REFERENCE NO: CE18-0009

MJ

Ms. Jacobs inspected the property on January 3, 2018 and June 5, 2018 and she found the following condition: work without a permit – electric. The action necessary to correct the violation is to secure the required permit and inspections. The notice of violation was sent to the owner on January 9, 2018 and it was claimed. The notice of hearing was sent to the owner on June 25, 2018 and it was claimed. Ms. Jacobs took pictures that accurately reflected the condition. Ms. Jacobs indicated that they did not receive a signed compliance agreement. If the hearing found a violation, the Town requested a finding of fact, obtain a permit for the installation of electric or a demolition

permit to remove the electric, pass inspections by September 19, 2018; otherwise a fine per day pursuant to the code with administrative costs of \$275.00 and a recall date of September 27, 2018. Reginald Beach, resident and friend of the respondent, provided a picture to clarify the situation. Mr. Beach stated that they wanted to install lights on the palm trees similar to a property across the street. FP&L told Mr. Beach that he would have to install regular electric service to the property for the lights. He requested time to look into the proposal. Mr. Madden found that a violation did exist and he gave the respondent until September 19, 2018 to abate the matter; otherwise, a fine of \$150.00 per day will be assessed and administrative costs of \$275.00 were to be paid with a recall date of September 27, 2018.

Property Owner: GANIM GEORGE W + JOSEPHINE
SUBJECT: LDC Section: 30-5 and 30-55 Signs - Parasite Signs & Sign w/out Permit
LOCATION: 1478 Estero Blvd.
STRAP NO: 19-46-24-W4-0070D-001A
CODE OFFICER: Molly Jacobs
REFERENCE NO: CE17-0223

Ms. Jacobs inspected the property on September 21, 2017 and June 20, 2018 and she found the following condition: signs-parasite signs & sign without a permit. The action necessary to correct the violation is to remove parasite signs and remove unpermitted signage or secure the required permit and inspections. The notice of violation was sent to the owner on September 28, 2017 and it was claimed. The notice of hearing was sent to the owner on June 25, 2018 and it was claimed. Ms. Jacobs took pictures that accurately reflected the condition. She had contact with the owner. Shannon Gray's husband, Dave leased the parking lot from Mr. Ganim. She read an email from Ms. Jacobs stating that the parasite sign violations were under review but she could not locate the information online. Ms. Jacobs explained that parasite signs attached to existing signs and some were permitted.

Ms. Jacobs provided the application and explained the unpermitted signs to Ms. Gray. She suggested that Ms. Gray complete the sign application, revise it or submit a second one.

Mr. Madden found that a violation did exist and he gave the respondent until September 19, 2018 to abate the matter; otherwise a fine of \$250.00 per day will be imposed and administrative costs of \$275.00 were assessed with a recall date of September 27, 2018.

Property Owner: GANIM PROPERTIES LLC
SUBJECT: LDC Section: 6-111 Adopting FBC 105.1 Work W/out permit
LOCATION: 1240 Estero Blvd.
STRAP NO: 19-46-24-W4-0140A-0010
CODE OFFICER: Joe Kontomanolis
REFERENCE NO: CE18-0008

Mr. Kontomanolis inspected the property on January 3, 2018 and February 15, 2018 and he found the following condition: work without a permit. The action necessary to correct the violation was to obtain a permit and pass inspections. The notice of violation was sent to the property owner via

certified mail on January 16, 2018 and was claimed. It was sent to the registered agent on January 8, 2018 and it was claimed. The notice of hearing was sent to the property owner and registered agent on July 12, 2018 and it was claimed by both. The notice of hearing was posted at Town Hall on July 5, 2018 and posted on the property July 9, 2018. Mr. Kontomanolis took pictures that accurately reflected the condition of a vent on the side of the property.

If the hearing found a violation, the Town requested a finding of fact, obtain a permit and pass inspections by September 19, 2018; otherwise, a fine per day pursuant to the code with administrative costs of \$275.00 with a recall date of September 27, 2018.

Anthony Levalle, leased the property from Mr. Ganim. He stated that he was working on the situation and he applied for the permit and it was with Bonita fire. Mr. Kontomanolis stated that Mr. Levalle had been in contact with the Town.

Mr. Madden found that a violation did exist and he gave the respondent until September 19, 2018 to abate the matter; otherwise, a fine of \$150.00 per day will be imposed and administrative costs of \$275.00 were assessed with a recall date of September 27, 2018.

Property Owner: CHAMPLIN JAMES D II
SUBJECT: LDC Section: 6-111 Adopting 105.1 SWO-work w/o permit
LOCATION: 220 Primo Dr.
STRAP NO: 19-46-24-W4-0060H-0110
CODE OFFICER: Joe Kontomanolis
REFERENCE NO: CE18-0016

Mr. Kontomanolis stated that the case was brought before the Magistrate on March 29, 2018, a finding of fact was established and an order was issued citing the respondent was in violation of work without a permit. The respondent was ordered to obtain permits, pass inspections and assessed \$175.00 in administrative costs. In the event that the violation was not abated by June 20, 2018, a fine of \$100.00 per day was to be imposed. The application was submitted and under review. Administrative costs and the citation had been paid. The Town requested an order to lien. Mr. Champlin stated that he applied for a permit on January 9, 2018 and it was not reviewed until March 21, 2018. The county told him that they submitted the wrong permit, so they refiled for a different permit. The permit was denied on April 9, 2018 because they requested an engineer's report for the windows and door. He obtained an engineer's report and the permit was still under review. He felt it was unfair because he complied with every request and he did not cause the time delays.

Mr. Madden amended the order for time of compliance to September 19, 2018 with a recall date of September 27, 2018.

Property Owner: RANDLE BRET A + CLARK JANNA K
SUBJECT: LDC Section: 303.2 Pool Enclosure
LOCATION: 5615 Lewis St.
STRAP NO: 33-46-24-W2-00001-0060
CODE OFFICER: Joe Kontomanolis

REFERENCE NO: CE18-0248

Mr. Kontomanolis inspected the property on April 18, 2018 and May 1, 2018 and he found the following condition: lack of a pool enclosure. The action necessary to correct the violation was to place a temporary barrier around the pool in 7 days, which was done, and 30 days to bring the enclosure around the pool into compliance.

The notice of violation was provided to the property owner on April 23, 2018 and was claimed. The notice of hearing was sent to the property owner on May 4, 2018 and it was claimed. Mr. Kontomanolis took pictures that accurately reflected the condition of the property. He inspected the property on July 25, 2018 and the condition still existed. He had contact with the owner.

Mr. Randle stated that his permit was finally issued on July 19, 2018 and the work should be completed within a couple of days.

If the hearing found a violation, the Town requested a finding of fact, obtain a permit and pass inspections by September 19, 2018; otherwise, a fine per day pursuant to the code with administrative costs of \$275.00 with a recall date of September 27, 2018.

Mr. Madden found that a violation did exist and he gave the respondent until August 22, 2018 to abate the matter; otherwise, a fine of \$150.00 per day will be imposed and administrative costs of \$275.00 were assessed with a recall date of August 30, 2018.

Mr. Randle requested that the administrative costs be waived. He stated that it was a replacement fence and should have been handled in one day. He did not know why the permit languished for over a month.

Mr. Madden waived the administrative costs. In the event that the order was not complied with, a fine of \$150.00 per day will be imposed.

Property Owner: EDSON WAYNE + LINDA M
SUBJECT: LDC Section: 6-111 Adopting FBC 105.1 Work W/out permit- Fence
LOCATION: 242 Delmar Ave.
STRAP NO: 19-46-24-W3-0100C-0160
CODE OFFICER: Joe Kontomanolis
REFERENCE NO: CE18-0182

Mr. Kontomanolis inspected the property on April 18, 2018 and May 1, 2018 and he found the following condition: work without a permit - fence. The action necessary to correct the violation was to obtain a permit and pass inspections.

The notice of violation was provided to the property owner on March 22, 2018 and it was claimed. The notice of hearing was sent to the property owner on May 7, 2018 and it was claimed. Mr. Kontomanolis took pictures that accurately reflected the condition of the property.

If the hearing found a violation, the Town requested a finding of fact, obtain a permit and pass inspections by September 19, 2018; otherwise, a fine per day pursuant to the code with administrative costs of \$275.00 with a recall date of September 27, 2018.

Mr. Madden found that a violation did exist and he gave the respondent until September 19, 2018 to abate the matter; otherwise, a fine of \$150.00 per day will be imposed and administrative costs of \$275.00 were assessed with a recall date of August 30, 2018.

Property Owner: LAGATTA THOMAS
SUBJECT: LDC Section: 6-111 Adopting FBC 105.1 Work w/out a permit- Expired permit ELE15-0001
LOCATION: 100 Washington Ave.
STRAP NO: 29-46-24-W1-0030C-0130
CODE OFFICER: Joe Kontomanolis
REFERENCE NO: CE18-0265

Mr. Kontomanolis inspected the property on April 20, 2018 and May 2, 2018 and he found the following condition: work without a permit – expired permit. The action necessary to correct the violation was to obtain a permit and pass inspections.

The notice of violation was provided to the property owner on May 1, 2018 and it was claimed. The notice of hearing was provided to the property owner on May 7, 2018 and it was claimed.

If the hearing found a violation, the Town requested a finding of fact, obtain a permit and pass inspections by September 19, 2018; otherwise, a fine per day pursuant to the code with administrative costs of \$275.00 with a recall date of September 27, 2018.

Mr. Madden found that a violation did exist and he gave the respondent until September 19, 2018 to abate the matter; otherwise, a fine of \$150.00 per day will be imposed and administrative costs of \$275.00 were assessed with a recall date of August 30, 2018.

Property Owner: BESSEY JAMES D
SUBJECT: LDC Section: 6-111 Adopting FBC 105.1 Work w/o Permit - Fence
LOCATION: 125 Mango St.
STRAP NO: 19-46-24-W3-0120E-0040
CODE OFFICER: Molly Jacobs
REFERENCE NO: CE17-0103

Ms. Jacobs noted that the case was brought before the Magistrate on August 30, 2017. A finding of fact was established and an order was issued citing the respondent in violation work without a permit - fence. The respondent was ordered to obtain required permit and pass inspections and was assessed \$175.00 in administrative costs. In the event the violation was not abated prior to October 17, 2017, a fine of \$150.00 per day was to be imposed. As of January 24, 2018, permit FNC170076 was finalized. The administrative fees have not been paid. The Town requested an order to lien.

Mr. Madden will send an order of ratification to the property owner.

Property Owner: GROOM GARY A
SUBJECT: LDC Section: 6-111 Adopting FBC 105.1 Work w/out Permit - Structure/Pilings
LOCATION: 102 Lovers Ln
STRAP NO: 30-46-24-W2-003N0-0080
CODE OFFICER: Molly Jacobs

REFERENCE NO: CE17-0264

Ms. Jacobs noted that the case was brought before the Magistrate on July 26, 2017. A finding of fact was established and an order was issued citing the respondent was in violation work without a permit – structure/pilings. The respondent was ordered to obtain required permit and pass inspections and was assessed \$175.00 in administrative costs. In the event the violation was not abated prior to October 17, 2017, a fine of \$150.00 per day was to be imposed. As of July 25, 2018, no permits had been applied for. The administrative costs have not been paid. The Town requested an order to lien.

Mr. Madden will send an order of ratification to the property owner.

Property Owner: LE BLANC MARTIN G
SUBJECT: LDC Section: 6-111 Adopting FBC 105.1 Work w/out Permit - Replacing Railing on Deck
LOCATION: 230 Bahia Via
STRAP NO: 34-46-24-W4-00027-0000
CODE OFFICER: Molly Jacobs
REFERENCE NO: CE17-0027

Ms. Jacobs noted that the case was brought before the Magistrate on March 29, 2017. A finding of fact was established and an order was issued citing the respondent was in violation of work without a permit – replacing railing on deck. The respondent was ordered to obtain required permit, pass inspections and administrative costs were waived. In the event the violation was not abated prior to June 16, 2017, a fine of \$100.00 per day was to be imposed. As of July 25, 2018, permit BLD170153 was still under review. The Town requested an order to lien.

Mr. Madden entered an order confirming the previous order from July 31, 2017.

Property Owner: LE BLANC MARTIN G
SUBJECT: LDC Section: 6-111 Adopting FBC 105.1 Work w/out Permit - Fence
LOCATION: 230 Bahia Via
STRAP NO: 34-46-24-W4-00027-0000
CODE OFFICER: Molly Jacobs
REFERENCE NO: CE17-0109

Ms. Jacobs noted that the case was brought before the Magistrate on April 27, 2017. A finding of fact was established and an order was issued citing the respondent was in violation work without a permit – fence. The respondent was ordered to obtain required permit and pass inspections and was assessed \$175.00 in administrative costs. In the event the violation was not abated prior to June 16, 2017, a fine of \$100.00 per day was to be imposed. As of July 26, 2018, no permits had been applied for. The administrative costs have not been paid. The Town requested an order to lien.

Mr. Madden entered an order confirming the previous order from July 31, 2017.

The following cases were abated: CE18-0291, CE18-0237, CE18-0112, CE18-0155, CE18-0174, CE18-0229, CE18-0232, CE18-0310, CE18-0318 and CE18-0323. Compliance agreements: CE18-0268 and CE18-0194. Continued: CE18-0170 and CE17-0702.

Signature: _____

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