

**MINUTES
FORT MYERS BEACH
Code Enforcement
Town Hall
2525 Estero Boulevard
Fort Myers Beach, FL 33931**

Thursday, March 29, 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.

Property Owner: NIESEL CHESTER A + NANCY TR FO
SUBJECT: LDC Sec. 14-73 Enforcement Turtle Inspections - Disorientation
LOCATION: 3700 Estero Blvd
STRAP NO: 29-46-24-W1-00180-0020
CODE OFFICER: Joe Kontomanolis
REFERENCE NO: CE17-0500



Mr. Kontomanolis noted that Ms. Jacobs inspected the property on July 12, 2017 and she found the following condition: disorienting lights during turtle season. The action necessary to correction the violation is to bring all light infractions into compliance with the proper lighting required during turtle season to avoid disorientation. The notice of violation and notice of hearing were sent to the owner via certified mail on March 6, 2018 and they were unclaimed. They were posted to the property and to Town Hall on March 1, 2018. Ms. Jacobs took pictures on July 12, 2017. Mr. Kontomanolis did not have contact with the property owner.

If the hearing found a violation, the Town requested a finding of fact that if the violation still stands for future turtle seasons a fine of \$500 per violation will be imposed.

Ms. Niesel stated that she rented the property and she provided signs that informed renters of the rules. She indicated that she abated the situation.

Mr. Madden found a finding of fact. If it happens again, Ms. Niesel will be fined \$500.00 per violation. There were no enforcement costs.

Property Owner: LAHAINA INN RESORT PH I + II T
SUBJECT: LDC Sec. 14-73 Enforcement -Turtle Inspections - Disorientation
LOCATION: 5600 Estero Blvd
STRAP NO: 33-46-24-W1-02400-00CE
CODE OFFICER: Joe Kontomanolis
REFERENCE NO: CE17-0669



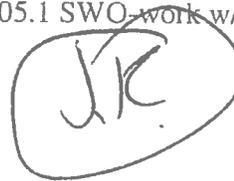
Mr. Kontomanolis inspected the property on August 17, 24 and 31, 2017. He found disorienting lights during turtle season. The action necessary to correction the violation is to bring all light infractions into compliance with the proper lighting required during turtle season to avoid disorientation. A notice of violation and a notice of hearing were sent to the owner via certified

mail and they were both claimed on February 12, 2018. He took pictures on August 17, 24, and 31, 2017 and the pictures accurately reflected the condition. The property was occupied and he contacted the property owner. If the hearing found a violation, the Town requested a finding of fact that if the violation still stands for future turtle seasons a fine of \$500 per violation will be imposed.

Mr. Stutson replied that the offending light was removed the day they were informed of the violation. He stated that the light had not been a problem since 1978. He noted that he did everything he could to protect the turtles.

Mr. Madden found a finding of fact. If it happens again, Mr. Stutson will be fined \$500.00 per violation. There were no enforcement costs.

Property Owner: CHAMPLIN JAMES D II
SUBJECT: LDC Section: 6-111 Adopting FBC 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 inspected the property on January 9, 2018 and February 13, 2018. He found work without a permit for a remodel. The actions necessary to correct the violation are to secure the required permit and associated inspections. A notice of violation was sent to the owner via certified mail on January 29, 2018 and it was claimed. It was posted on the property on January 17, 2018 and at Town Hall on January 18, 2018. The notice of hearing was sent to the owner via certified mail on March 14, 2018 and it was claimed.

Mr. Kontomanolis took pictures on January 9, 2018 and February 13, 2018 and the pictures accurately reflected the condition. He stated that the violation still existed, the property appeared to be unoccupied and the condition was anonymously reported. The owner indicated that he would appear at the hearing. A remodel permit was applied for and currently under review.

If the hearing found a violation, the Town requested a finding of fact, obtain a permit and pass all subsequent inspections by April 18, 2018; otherwise a fine per day pursuant to Code with \$275.00 in administrative costs. Mr. Madden questioned whether April 18, 2018 was a reasonable timeframe. Mr. Bogart indicated that it was not a realistic due date.

Mr. Champlin stated that he immediately filed for a permit application on January 11 or 12, 2018 after receiving the notice of violation. They got a review request last week and he sent additional information this week. Ms. Champlin noted that they have been going back and forth between the Town and the County for over two months. Linda Sloan from Lee County was working on the case. Ms. Champlin noted that their mail was sent to their northern address. Mr. Champlin stated that the County had not reviewed their case. Mr. Bogart indicated that Lee County was backed up.

Mr. Madden found that a violation existed. Mr. Bogart requested that the date be extended to June 20, 2018 and he reduced the administrative costs to \$175.00. Ms. Champlin revealed that they already paid \$250.00 for the violation. Mr. Madden noted that the \$250.00 fine for a stop work notice was a different proceeding. He ordered a fine of \$100.00 per day if the violation was not abated by June 20, 2018. He entered an order to that effect.

Property Owner: MAROVITZ FAMILY VENTURES LLC

SUBJECT: LDC Sec. 14-73 Enforcement -Turtle Inspections - Disorientation
LOCATION: 2916/2918 Seaview St
STRAP NO: 30-46-24-W2-003M0-0100
CODE OFFICER: Joe Kontomanolis
REFERENCE NO: CE17-0434



Mr. Kontomanolis inspected the property on June 29, 2017 and August 24 and 31, 2017. He found disorienting lights during turtle season. The action necessary to correction the violation is to bring all light infractions into compliance with the proper lighting required during turtle season to avoid disorientation. A notice of violation and notice of hearing were sent to the property owner via certified mail and both were claimed on February 14, 2018. He took pictures on June 29, 2017 and August 24 and 31, 2017 that accurately reflected the condition of the property. He did not have contact with the property owner.

If the hearing found a violation, the Town requested a finding of fact that if the violation still stands for future turtle seasons a fine of \$500 per violation will be imposed. Mr. Madden entered an order to that effect.

Property Owner: SUMMER DAZE LP
SUBJECT: LDC Sec. 14-73 Enforcement -Turtle Inspections - Disorientation
LOCATION: 5940 Estero Blvd
STRAP NO: 33-46-24-W3-0040G-0040
CODE OFFICER: Joe Kontomanolis
REFERENCE NO: CE17-0471



Ms. Jacobs inspected the property on June 6 and 13, 2017 and found the following condition: disorientating lights during turtle season. The action necessary to correction the violation is to bring all light infractions into compliance with the proper lighting required during turtle season to avoid disorientation. A notice of violation and a notice of hearing were sent to the owner via certified mail on March 8, 2018 and they were both unclaimed. They were posted on the property and the Town on March 9, 2018. Ms. Jacobs took pictures on June 6, 2017 and they accurately reflected the condition. The property appeared to be unoccupied and he did not have contact with the property owner. If the hearing found a violation, the Town requested a finding of fact that if the violation still stands for future turtle seasons a fine of \$500 per violation will be imposed.

Mr. Madden entered an order to that effect.

Property Owner: OBRIEN DAVID M + SANDRA J
SUBJECT: LDC Sec. 14-73 Enforcement Turtle Inspections - Disorientation
LOCATION: 6000/6002 Gulf Rd
STRAP NO: 33-46-24W3-00600-0260
CODE OFFICER: Joe Kontomanolis
REFERENCE NO: CE18-0085



Mr. Kontomanolis stated that Eve Haverfield inspected the property on August 14, 2017 and found the following condition: disorientating lights during turtle season. The action necessary to correction the violation is to bring all light infractions into compliance with the proper lighting

required during turtle season to avoid disorientation. A notice of violation and a notice of hearing were sent to the owner via certified mail on March 5, 2018 and they were both unclaimed. They were posted at the property on March 7, 2018 and the Town on March 5, 2018. The pictures were provided by Ms. Haverfield and accurately reflected the condition. He was not in contact with the property owner.

If the hearing found a violation, the Town requested a finding of fact that if the violation still stands for future turtle seasons a fine of \$500 per violation will be imposed.

Mr. Madden found that a violation existed and a fine of \$500 could be imposed without the need for a hearing. He entered an order to that effect.

Property Owner: CORNELL SARAH + UNKNOWN HEIRS
SUBJECT: LDC Section: 6-111 Adopting FBC 105.1- Work Without a Permit
LOCATION: 14 Pepita St.
STRAP NO: 33-46-24-W2-0090B-0120
CODE OFFICER: Joe Kontomanolis
REFERENCE NO: CE17-0807

JK

Mr. Kontomanolis inspected the property on October 25, 2017 and January 12, 2018. The following condition was found: work without a permit. The action necessary to correct the violation was to secure required permit and inspections. A notice of violation was sent to the property owner and registered agent on December 18, 2017 and both were claimed. A notice of hearing was sent to the property owner and registered agent on January 19, 2018 and both were claimed. Mr. Kontomanolis took pictures on October 25, 2017, December 23, 2017 and January 12, 2018 that accurately reflected the condition of the property. He stated that a permit application had been submitted and was under review. The property did not appear to be occupied and he did not have contact with the owner.

If the hearing found a violation, the Town requested a finding of fact, obtain a permit and pass all subsequent inspections by April 18, 2018; otherwise a fine per day pursuant to Code with \$275.00 in administrative costs.

Mr. Madden found that a violation did exist and he ordered that \$275.00 in administrative costs be paid. If the condition was not abated by April 18, 2018 a fine of \$150 per day will be assessed. The recall date was April 26, 2018. He entered an order to that effect.

Property Owner: GREATHOUSE C DEAN
SUBJECT: 302.4 Weeds, Town of FMB Property Maintenance Code - Over Grown Yard
LOCATION: 179 Dundee Rd
STRAP NO: 33-46-24-W2-005J0-0060
CODE OFFICER: Joe Kontomanolis
REFERENCE NO: CE18-0080

JK

Mr. Kontomanolis inspected the property and took pictures on February 1 and 15, 2018. The following condition was found: over grown yard. The action necessary to correct the violation was to cut all grass. A notice of violation was sent to the property owner on February 7, 2018 and was claimed. A notice of hearing was sent to the property owner on February 26, 2018 and it was claimed. The pictures accurately reflected the condition of the property. He inspected the

property on March 28, 2018 and the violation still existed. He did not have contact with the property owner and a citizen reported the condition.

If the hearing found a violation, the Town requested a finding of fact, mow all grass with a properly maintained schedule to avoid further action by April 18, 2018; otherwise a fine per day pursuant to Code with \$275.00 in administrative costs and a recall date of April 26, 2018.

Mr. Madden found that a violation existed and he ordered \$275.00 in administrative costs. If the condition was not abated by April 18, 2018, a fine of ~~\$150.00~~ per day will be assessed. The recall date was April 26, 2018.

\$100.00 JK.

Property Owner: HORODYNSKY BORIS J
SUBJECT: LDC Section: 6-111 Adopting FBC 105.1 - Work w/out Permit - Remodel
LOCATION: 7650 Estero Blvd 807
STRAP NO: 03-47-24-W4-04900-8070
CODE OFFICER: Joe Kontomanolis
REFERENCE NO: CE17-0891

JK.

Ned Hale, attorney, represented Mr. Horodynsky. He stated that his client received a code violation notice pursuant to improvements made regarding rerouting of piping that was done and affected common property. His client had an inspection scheduled on Monday and intended to bring the inspection in as evidence. Mr. Hale did not know where his client was and he respectfully requested a continuance. The work had been stopped. Mr. Kontomanolis indicated that the work was completed.

The President of the Shamron condominiums stated that the work started in November of 2016 and detrimentally affected one owner. She discussed times when the owner previously violated the rules. She stated that he took out a wall that contained a ventilation pipe, plumbing and electrical and rerouted it through his condo. She indicated that owners complained of gurgling drains and sinks not draining properly. She stated that he refused to put things back. He was fined \$1,000.00 by the association. She confirmed that work was not being done. She requested that the affected owner testify. Mr. Hale objected to further questioning.

Phillip Cameron, resident below the unit, stated that last November he noticed that his dishwasher and kitchen sinks gurgled and were slow to drain. He stated that Mr. Horodynsky removed the fire alarm.

Mr. Madden continued the matter until April 26, 2018 at 9:00 a.m. The President confirmed that she contacted Code Enforcement on behalf of the condo board.

LIEN CASE:

Property Owner: ~~ESTERO BEACH REAL ESTATE LLC~~/Norman ~~Primo~~ Primeau
SUBJECT: LDC Section: 6-111 Adopting FBC 105.1
Work W/out permit- Expired Permit ROF16-0014
LOCATION: 1365/1375 Estero Blvd
STRAP NO: ~~19-20-46-24-W4-00800-0010~~ 19-46-24-W4-00603-0120
CODE OFFICER: Molly Jacobs
REFERENCE NO: CE17-0748

Ms. Jacobs noted the case was brought before the Magistrate on November 29, 2017. A finding of fact was established and an order was issued citing that the respondent was in violation of work without a permit – remodel. The respondent was ordered to obtain required permits and pass inspections. They were assessed \$175.00 in administrative costs. If the violation still existed on February 14, 2018, a fine of \$100 per day was to be imposed. On February 14, 2018 an application was submitted but it was under review. The administrative costs were not paid. The Town requested a lien. Mr. Madden entered an order to place a lien on the property effective February 14, 2018.

MJ
RE-HEARING CASE:

Property Owner: ISLAND WINDS CONDO
SUBJECT: LDC Section: 6-111 Adopting FBC 105.1 SWO - REPEAT - Work w/out Permit - Remodel (office)
LOCATION: 6614 Estero Blvd.
STRAP NO: 34-46-24-W4-02100-00CE
CODE OFFICER: Molly Jacobs
REFERENCE NO: CE17-0354

Ms. Jacobs indicated that the case was initially brought before the Magistrate on October, 25, 2017 and then for the lien hearing on March 1, 2018. She inspected the property on June 22, 2017 and the following condition was found: repeat work without permit- remodel of the office. CE16-0488 was previously found in violation with the same code section. The action necessary to correct the violation was to secure required permit and inspections. The notice of violation and notice of hearing was provided to the property owner and registered agent and claimed on June 28, 2017 and June 27, 2017. A stop work order was posted on the property June 22, 2017 and at the Town on June 30, 2017. Ms. Jacobs took pictures and they accurately reflected the condition of the property. She noted that a permit for the remodel was finalized on March 21, 2018. If the hearing found a violation, the Town requested that the initial order remain in effect. She stated that they had a fine of \$22,000.00 and the administrative fee was paid.

Dennis Dubois, property manager, stated that the permit was issued on February 27, 2018 and he thought that meant that he was in compliance and that is why he did not show up on March 1, 2018. The earlier violation did not occur under his watch, but the office remodel did and he did everything that he was told to do.

Mr. Madden stated that Code Enforcement stopped the lien and the next step was for him to appear before Town Council for a lien mitigation hearing. Mr. Madden issued an order affirming the March 1, 2018 order.

Citation #212, CE17-0818 and CE17-0831 were abated. CE17-0891, CE17-0285 and CE16-0445 were continued to April 26, 2018.

Signature: _____

Hearing Examiner - Special Magistrate: Mr. Joe Madden

Mr. Madden swore in those providing testimony.

BEACH PATROL CASES TO BE HEARD:

Property Owner: Patricia McIver
SUBJECT: Overtime Meter
CODE SECTION: Sec. 28-51 (A)
LOCATION: Palm Ave
BASE OFFICER: Mark Pergoli
REFERENCE NO: Citation # 73202824

Qm

CLZ 2988

Mr. Pergoli indicated that on February 18, 2018 he observed that Space 203 on Palm Ave. was expired. He issued an overtime meter citation at 3:48 p.m. to a black Lexus with a Michigan plate CL02988. He took pictures and placed the citation under the driver's side windshield wiper. He did not have any contact with the owner. Backup documentation was submitted to Ms. McIver via email on February 27, 2018.

Mr. Madden questioned whether Ms. McIver understood the information on the back of the citation. She replied in the affirmative. She confirmed that she received the pictures. She stated that she put cash into the meter and placed her printed receipt on the dashboard of her car. When she noticed she received a ticket she called the phone number on the meter. She spoke to Doug and was told that her meter was not paid for. Mr. Pergoli explained the meter printout. Ms. McIver produced her receipt. Mr. Pergoli wondered whether she pushed the red button, which cancelled out the transaction. Ms. McIver questioned whether they could determine that she inserted \$10.00. Mr. Pergoli replied in the negative.

Mr. Madden determined that Ms. McIver was in violation. The Town requested a finding of fact, payment of \$75.00 and \$175.00 in administrative costs by April 18, 2018 and a recall date of April 26, 2018. Mr. Madden ordered Ms. McIver to pay the fine of \$75.00 and \$175.00 in administrative fees by April 18, 2018. Ms. McIver requested leniency. Ms. Jacobs adjusted the payment due date to May 23, 2018 and May 30, 2018 for recall.

Citations 71921150 and 70935211 were abated.

Signature: _____

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