

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

Thursday, May 16, 2019

Hearing Examiner - Special Magistrate: Thomas Franchino

Magistrate Franchino swore in those providing testimony.
Town Attorney Herin, Jr. represented the Town.
Staff: Code Compliance Manager Daphne Burcher

CASES TO BE HEARD:

Violator: MICHAEL HOLT
SUBJECT: Overtime Meter
CODE SECTION: Code 28-51 (A)
LOCATION: Flamingo St, Meter 70
BASE OFFICER: Harry Lee
REFERENCE NO: CITATION 70940855

Officer Lee issued a citation to the violator on March 28, 2019. The Town requested an order for payment of the fine in the amount of \$50.00.

Mr. Holt stated that the fine was \$35.00. He indicated that the meter was faulty and it did not register his quarters. After \$3.75 in quarters, the meter registered 20 minutes. He returned to his vehicle after 35 minutes and discovered a ticket on his windshield. He informed another officer that the meter was not working and was told to call the number on the meter. Mr. Holt called the number and spoke to Mr. Mallory who refused to do anything about the meter or the ticket. He was told he had to pay the fine and appear in front of the Magistrate. He took a video showing that the meter was not registering quarters correctly but Mr. Mallory refused to review the video and told him he had to pay the fine. Mr. Holt stated that he went back two weeks later and the meters were cut off and signs were installed instructing people to use a phone app. He also indicated that Mr. Mallory informed him the fine would not increase because a court date had been set.

After reviewing the video, the Town withdrew the citation. *WA*

Violator: MARY ANNE HARRIS
SUBJECT: Overtime Meter
CODE SECTION: Code 28-51 (A)
LOCATION: Estero Blvd, Meter 71
BASE OFFICER: Mark Shecralla

REFERENCE NO: CITATION 03905731

Officer Shecralla issued the citation and the fine has not been paid. The Town requested an order for payment of the fine in the amount of \$50.00.

Ms. Harris received the citation on April 13, 2019. She stated that she paid for her spot at the wrong station and she noted that a sign directing her to the correct station was missing from her parking spot. She provided a photo of the parking spot and her paid receipt. The officer told her there was nothing he could do. Town Attorney Herin, Jr. indicated that she parked in a town spot but paid for a spot in a private lot. Ms. Harris stated that new signs with new instructions were now posted on the spot. Town Attorney Herin, Jr. reduced the citation to \$6.00. Magistrate Franchino ordered Ms. Harris to pay the \$6.00 fine. *NS*

Property Owner: SEGWAY BEACH TOURS
SUBJECT: Operation of Motor Vehicle Prohibited
CODE SECTION: Ord 18.02
LOCATION: 2330 Estero Blvd
BASE OFFICER: Bill Stout
REFERENCE NO: CITATION 0858, CITATION 0859, CITATION 0860, CITATION 0861, CITATION 0862, CITATION 0863

Officer Stout issued the citations on April 1, 2019. The Town requested an order for payment of \$50.00 for each citation. Officer Stout provided photos and stated the owner was conducting a tour on segways using the sidewalk. Each person of the group was issued a citation.

Magistrate Franchino entered an order for payment of \$50.00 on each citation. Town Attorney Herin, Jr. requested an additional fine of \$75.00 for the cost of the hearing. Magistrate Franchino ordered that each citation include an additional \$75.00. *NS*

Property Owner: ISLAND CYCLE
SUBJECT: Sofa Sitting on Sidewalk
CODE SECTION: Sec. 302-1
LOCATION: 2330 Estero Blvd
BASE OFFICER: Joe Kicha
REFERENCE NO: CITATION 0964

Officer Kicha issued the citation on April 24, 2019, which has not been paid. The Town requested an order for payment of \$100.00 plus \$75.00 in administrative fees. Officer Kicha provided photos of the sofa. Magistrate Franchino entered an order for payment of the \$100.00 fine plus \$75.00 in administrative fees. *NS*

Property Owner: GAYLE LYNN BAISCH
SUBJECT: Garbage Cans at Curb 5 Days Before Garbage Day
CODE SECTION: 308.4 1
LOCATION: 63 Delmar Ave
BASE OFFICER: Nello Cernoia
REFERENCE NO: CITATION 0982

Officer Cernoia issued the citation on April 20, 2019, which had not been paid. The Town requested an order for payment of \$100.00 plus \$75.00 in administrative fees. The property owner was not present. Magistrate Franchino entered an order for \$100.00 plus \$75.00 in administrative fees. *MS*

Property Owner: VASMANY MARQUEZ
SUBJECT: Reckless Driving with Buys on Jet ski
CODE SECTION: 97-5 Sec. 16
LOCATION: 63 Delmar Ave
BASE OFFICER: Todd Sears
REFERENCE NO: CITATION 0963

Officer Sears issued the citation on April 12, 2019, which had not been paid. The Town requested an order for payment of \$100.00 plus \$75.00 in administrative fees. Officer Sears stated that he observed the driver driving recklessly. When the owner was confronted, he indicated that he was unaware of the law. The owner was not present. Magistrate Franchino entered an order for \$100.00 plus \$75.00 in administrative fees. *MS*

Property Owner: PERSAUD PROPERTIES FL INVESTMENT
SUBJECT: Collecting Money for Parking without Use Permit
CODE SECTION: LDC34-621
LOCATION: 1046 Estero Blvd
BASE OFFICER: Mark Pergoli, Joe Kicha, Kevin Przybyszewski, Nello Cernoia
REFERENCE NO: CITATION 0702, CITATION 0913, CITATION 0962, CITATION 0977, CITATION 0978, CITATION 0979, CITATION 0914 *MS*

The officers issued the citations in the amount of \$500.00 per citation and they had not been paid. The owner is a repeat offender. The Town requested an order for payment of \$500.00 per citation plus \$75.00 per citation in administrative fees. Town Attorney Herin, Jr. stated that he informed the property owner that he had to submit an application for a permit, but he had not done so. Joe Orlandini represented the owner. Town Attorney Herin, Jr. stated that the prior citations were the subject of a pending appeal in the Circuit Court. Mr. Orlandini stated that they would like to consolidate the citations into the appeal. Magistrate Franchino entered an order requiring payment of \$500.00 on each citation and \$75.00 in administrative fees for each citation. Town Attorney Herin, Jr. stated that the owner will receive a citation for each day they remain in violation. He noted it would take approximately 60 days for the special exception to be processed. Mr. Orlandini noted that the parking lot had been operating for the last 40 years.

Property Owner: PERSAUD PROPERTIES FL INVESTMENT
SUBJECT: Sign/bench on Town Property- No Use Permit
CODE SECTION: LDC 34-621
LOCATION: 1028 Estero Blvd
BASE OFFICER: Joe Kicha, Ronald Benak, Nello Cernoia, Mark Shecralla
REFERENCE NO: CITATION 0957, CITATION 0945, CITATION 0976, CITATION 0635

The officers issued the citations with a fine of \$100.00 per citation, which had not been paid. The Town requested an order for payment of \$100.00 per citation plus \$75.00 per citation in administrative fees. Photos from Mach 24, 2019 illustrated a bench, sandwich sign board and a podium on Town property without a proper permit. Officer Cernoia indicated that he spoke to the owner on several occasions.

Mr. Orlandini stated that the permit lapsed but it had been reissued and the citations were issued during the application period. Mr. Orlandini stated that they were assured they would not be fined while applying for a permit.

The Town changed their request for an order of \$100.00 for 0957, \$250.00 for 0945, \$500.00 for 0976 and \$500.00 for 0635 due to repeat violations.

Magistrate Franchino entered an order for payment of \$850.00 plus \$75.00 in administrative fees.

Property Owner: PERSAUD PROPERTIES FL INVESTMENT
SUBJECT: Littering
CODE SECTION: Chapter 14 Sec.14-52
LOCATION: 1028 Estero Blvd
BASE OFFICER: Nello Cernoia
REFERENCE NO: CITATION 0944, CITATION 0980, CITATION 0981

Officer Cernoia issued the citations and they have not been paid. The Town requested an order to pay the fines as follows: \$50.00 for 0944, \$250.00 for 0980 and \$500.00 for 0981 for repeat violations for a total of \$800.00 plus \$75.00 in administrative fees. Officer Cernoia explained that he had numerous conversations regarding blowing trash from the restaurant onto the sand. He noted that they were now trying to clean up the sand after blowing the trash. Mr. Orlandini questioned whether a blower was used since the employees were instructed to sweep. He noted there were other activities in the area that resulted in trash accumulation. He commented that steps had been taken to keep the area clean.

Magistrate Franchino entered an order for payment of \$800.00 plus \$75.00 in administrative fees.

Property Owner: HORODYNSKY BORIS J
SUBJECT: LDC Sec. 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: Carl Bengé
REFERENCE NO: CE17-0891

The Town stated that an order was previously entered but the property was still not in compliance; therefore, they requested an order to lien for the amount accrued.

Permitting Technician Patty Prevost stated that a remodel permit was pulled on August 3, 2018. Susan McLaughlin from Pavese Law Firm represented Mr. Horodynsky. Town Attorney Herin, Jr. remarked that the previous compliance date was July 20, 2018 with a daily fine of \$200.00. The final inspection was issued on January 16, 2019.

Ms. McLaughlin stated that they were not contesting the violation but there were mitigating factors involved. She provided exhibits reviewing the previous compliance agreement. She noted that

the dispute was intertwined with a dispute with the condominium association. She stated that a plumbing permit was filed the day before they entered into the compliance agreement. On July 19, 2018, Molly Jacobs sent an email stating that they could not issue the plumbing permit because a remodel application was not on file. Ms. McLaughlin contacted Ms. Jacobs on July 26, 2018 to request relief or acknowledge that they were in compliance. Ms. McLaughlin remarked that the Town neglected to process the permit within 30 days as stated in the compliance agreement. She felt that a \$500.00 fine was overreach on the part of the Town. The application for the remodel permit was dated August 2, 2018 and represented a good faith effort. She stated that the condo association removed the electrical contractors while they were working in the condo, which pushed the project back further. The work was restarted in November of 2018 and finalized on January 16, 2019. She provided the certificate of compliance issued on September 27, 2018, which was the same date the permit was issued. She argued that her client did everything he could to proceed to get the permit issued and work done. She stated that it was not a repeat violation and a daily fine of \$500.00 was excessive and a violation of due process. She questioned how the Town could, in good faith, enter into a 30-day compliance agreement and then take more than 30 days to issue a permit.

Town Attorney Herin, Jr. stated that the compliance agreement contained a date that was not met. He stated that they would not be there had the applicant obtained a permit before starting work in the first place. He commented that Town Council was responsible for mitigating fines. He noted that a member of the condo association was prepared to testify.

Magistrate Franchino reviewed the file and found there was a lack of compliance and the owner agreed to \$500.00 per day per the compliance agreement. He included the \$500.00 daily fine in his order to impose the lien and stated that Mr. Horodynsky was free to petition the Town Council for mitigation of the final amount.

Property Owner: WOODLAND CUSTOM HOMES
SUBJECT: Sec 14-382(a) Removal of Tree without Permit
LOCATION: 5350 Palmetto St
STRAP NO: 33-46-24-W1-00203.0120
CODE OFFICER: Carl Bengé
REFERENCE NO: CE19-0139, CITATION 0515

Officer Bengé investigated the complaint and issued a \$100.00 citation, which had not been paid. The Town requested an order for payment of \$100.00 plus \$75.00 in administrative costs.

Carolyn, Manager from Woodland Custom Homes, stated that a vegetation permit was issued and the tree they removed was partially in the right-of-way and prevented construction of a road. She was not sure what happened to the original vegetation permit, so she applied for another permit on April 4, 2019 after the tree was removed. She stated that she had not heard back from the building department.

Officer Bengé stated that the tree was not included in the vegetation permit and they exceeded what they were supposed to do. Officer Bengé provided photos of the location of the tree before removal and he noted the tree was protected.

Magistrate Franchino entered an order for payment of the \$100.00 fine plus \$75.00 in administrative fees.

Property Owner: PERSAUD PROPERTIES FL INVESTMENT
SUBJECT: LDC Sec. 30-5 Prohibited Sign
LOCATION: 1028 Estero Blvd
STRAP NO: 24-46-23-W3-00017.0000
CODE OFFICER: Carl Bengé
REFERENCE NO: CE18-0641

Officer Bengé inspected the property and found a prohibited sign. The notice of violation was provided to the property owner on 7-19 and the notice of hearing was provided to the property owner on March 22, 2019.

The Town requested a finding of fact and a compliance date; otherwise a fine of \$250.00 per day will be imposed plus \$75.00 in administrative fees.

Officer Bengé provided photos of the sign.

Magistrate Franchino entered an order to remove the sign on or before May 25, 2019; otherwise a fine of \$250.00 per day will be imposed. He ordered payment of \$75.00 in administrative fees. *vs*

Property Owner: MARKOVICH, GEORGE AND AMY
SUBJECT: Install/Maintain Screening for Dumpsters
LOCATION: 1510 Estero Blvd
STRAP NO: 19-46-24W-40070C.0020
CODE OFFICER: Carl Bengé
REFERENCE NO: CE18-0677

Officer Bengé investigated a complaint on the property and found a violation. A notice of violation was provided to the property owners on January 29, 2019 and they were given 14 days to comply. They have not come into compliance. The Town requested an order to impose a fine of \$250.00 per day until the violation came into compliance and administrative fees of \$75.00.

Joe Orlandini represented the property owners and stated that the property was in the process of being demolished. The Town requested a finding that a violation did occur; although it was now in compliance, and requested payment of \$75.00 in administrative fees.

Magistrate Franchino replied out of range of the microphone. *no*

Property Owner: DIOCESE OF VENICE
SUBJECT: Drainage Shall Not Create a Public Nuisance
LOCATION: 6025/6029 Estero Blvd
STRAP NO: 33-46-24-W2-00007.0000
CODE OFFICER: Carl Bengé
REFERENCE NO: CE18-0732

Officer Bengé investigated a complaint regarding improper drainage. The Town requested a continuance to allow the Diocese to obtain evidence that they were in the process of providing a professional's inspection report concerning their stormwater system. Town Manager Hernstadt stated that the Town will clean out a nearby drainage ditch that was contributing to the problem.

Jen Guya represented the Diocese and agreed with the terms as outlined.

Magistrate Franchino continued the case for 60 days. *vs*

Property Owner: MICTIA PROPERTIES, LLC
SUBJECT: LDC Sec. 6-111 Adopting FBC 105.1 Work w/out Permit – Fence
LOCATION: 61 Delmar Ave
STRAP NO: 19-46-24-W4-0100H.0020
CODE OFFICER: Carl Bengé
REFERENCE NO: CE18-0820

Officer Bengé investigated a complaint regarding work without a permit – fence. A stop work order was issued on October 12, 2018. A notice of violation was provided to the property owner on October 16, 2018. The property owners were given 30 days to secure a permit. A notice of hearing was posted to the property on November 13, 2018. The property was not in compliance and no permits had been applied for or secured.

The Town requested an order of compliance, a fine of \$250.00 per day and administrative costs of \$75.00. Joe Orlandini represented the client and provided a copy of the applicants for permits for three violations in three separate cases.

Town Attorney Herin, Jr. requested a finding that a violation had occurred and a \$75.00 administrative fee be paid. He stated that if the permit was not secured within 30 days, the property owner could request additional time, or he would be issued citations as a repeat violator with a \$500.00 per day fine.

Magistrate Franchino entered an order that the permit must be secured within 45 days and if there were issues with the process, the property owner could request additional time. *W*

Property Owner: MICTIA PROPERTIES, LLC
SUBJECT: LDC Sec. 6-111 Adopting FBC 105.1 SWO Work w/out Permit – Driveway
LOCATION: 61 Delmar Ave
STRAP NO: 19-46-24-W4-0100H.0020
CODE OFFICER: Carl Bengé
REFERENCE NO: CE18-0821

Manager Burcher stated that the work had been completed without a permit and the violation was for doing the work without a permit.

Mr. Orlandini stated that the driveway was resurfaced. The Town requested fines that reflected the seriousness of working through a stop work order. Town Attorney Herin, Jr. noted that a one-time fine of \$5,000.00 could legally be imposed. Manager Burcher stated that the stop work order was issued on October 12, 2018. The Town provided photos and indicated that the driveway included a deck around the house.

Magistrate Franchino verified that Mr. Orlandini's subcontractors worked through the stop work order. The Town requested the maximum fine of \$5,000.00 for this case and CE18-0822.

Mr. Orlandini described events that snowballed during the project. He stated that he had stop work orders placed incorrectly on other properties and he indicated that they were covering an existing driveway and did not need a permit. He noted that he had been in contact with the Town during the project. He stated that the machinery to replace the windows damaged the driveway and they decided to repave rather than replace. He noted that the owners were not allowed to live in the home until the repairs were made.

Magistrate Franchino imposed a \$2,500.00 fine for violating the stop work order. *W*

Property Owner: MICTIA PROPERTIES, LLC
SUBJECT: LDC Sec. 6-111 Adopting FBC 105.1 SWO Work w/out Permit – Remodel
LOCATION: 61 Delmar Ave
STRAP NO: 19-46-24-W4-0100H.0020
CODE OFFICER: Carl Bengé
REFERENCE NO: CE18-0822

Manager Burcher stated that the work had been completed without a permit.
Magistrate Franchino imposed a \$2,500.00 fine for violating the stop work order. 

Property Owner: SUNSCAPE RENTAL, INC
SUBJECT: Sec. 10-198 Unregistered short-term rental
LOCATION: 21500 Indian Bayou Dr
STRAP NO: 33-46-24-W2-0120B.0000
CODE OFFICER: Carl Bengé
REFERENCE NO: CE19-0128, Citation 1507

The Town requested a fine of \$500.00 plus \$75.00 in administrative fees.
Officer Bengé stated that short term rentals were required to be registered and the registration number must be included in advertising. Manager Burcher stated that the property owner had come into compliance but the Town requested that the citation be paid.
Sunscap representatives stated that they received one certified letter that included a citation on Saturday, April 13, 2019. The following Monday they paid the citations in full and she indicated that they did not know they were in violation. She did not feel they should be punished because they paid everything. Town Attorney Herin, Jr. stated that a notice was previously sent to the same address on November 15, 2018. The representative stated that it was sent to the accountant's office and as soon as she was made aware of the citation, she paid the full amount.
Magistrate Franchino entered an order for payment of \$250.00 as a civil penalty on each of the cases plus \$75.00 in administrative fees. 

Property Owner: SUNSCAPE RENTAL, INC
SUBJECT: Sec. 10-198 Must Place Registration Number on All Advertising
LOCATION: 21500 Indian Bayou Dr
STRAP NO: 33-46-24-W2-0120B.0000
CODE OFFICER: Carl Bengé
REFERENCE NO: CE19-0149, Citation 1507

The Town requested a fine of \$500.00 plus \$75.00 in administrative fees.
Officer Bengé stated that short term rentals were required to be registered and the registration number must be included in advertising. Manager Burcher stated that the property owner had come into compliance but the Town requested that the citation be paid.
Sunscap representatives stated that they received one certified letter that included a citation on Saturday, April 13, 2019. The following Monday they paid the citations in full and she indicated that they did not know they were in violation. She did not feel they should be punished because they paid everything. Town Attorney Herin, Jr. stated that a notice was previously sent to the same

address on November 15, 2018. The representative stated that it was sent to the accountant's office and as soon as she was made aware of the citation, she paid the full amount. Magistrate Franchino entered an order for payment of \$250.00 as a civil penalty on each of the cases plus \$75.00 in administrative fees. 

Property Owner: SUNSCAPE RENTAL, INC
SUBJECT: Sec. 10-198 Unregistered Short-term Rental
LOCATION: 21504 Indian Bayou Dr
STRAP NO: 33-46-24-W2-0120A.0000
CODE OFFICER: Carl Bengé
REFERENCE NO: CE19-0129, Citation 1508

The Town requested a fine of \$500.00 plus \$75.00 in administrative fees. Officer Bengé stated that short term rentals were required to be registered and the registration number must be included in advertising. Manager Burcher stated that the property owner had come into compliance but the Town requested that the citation be paid. Sunscape representatives stated that they received one certified letter that included a citation on Saturday, April 13, 2019. The following Monday they paid the citations in full and she indicated that they did not know they were in violation. She did not feel they should be punished because they paid everything. Town Attorney Herin, Jr. stated that a notice was previously sent to the same address on November 15, 2018. The representative stated that it was sent to the accountant's office and as soon as she was made aware of the citation, she paid the full amount. Magistrate Franchino entered an order for payment of \$250.00 as a civil penalty on each of the cases plus \$75.00 in administrative fees. 

Property Owner: SUNSCAPE RENTAL, INC
SUBJECT: Sec. 10-198 Must Place Registration Number on All Advertising
LOCATION: 21504 Indian Bayou Dr
STRAP NO: 33-46-24-W2-0120A.0000
CODE OFFICER: Carl Bengé
REFERENCE NO: CE19-0150, Citation 1508

The Town requested a fine of \$500.00 plus \$75.00 in administrative fees. Officer Bengé stated that short term rentals were required to be registered and the registration number must be included in advertising. Manager Burcher stated that the property owner had come into compliance but the Town requested that the citation be paid. Sunscape representatives stated that they received one certified letter that included a citation on Saturday, April 13, 2019. The following Monday they paid the citations in full and she indicated that they did not know they were in violation. She did not feel they should be punished because they paid everything. Town Attorney Herin, Jr. stated that a notice was previously sent to the same address on November 15, 2018. The representative stated that it was sent to the accountant's office and as soon as she was made aware of the citation, she paid the full amount. Magistrate Franchino entered an order for payment of \$250.00 as a civil penalty on each of the cases plus \$75.00 in administrative fees. 

Property Owner: TEZAK WAYNE P + HELEN C TR FOR TEZAK FAMILY TRUST
SUBJECT: Sec. 10-198 Unregistered Short-term Rental
LOCATION: 50 Chapel St (Unit 1)
STRAP NO: 19-46-24-W3-0120A.0170
CODE OFFICER: Carl Bengé
REFERENCE NO: CE19-0141, Citation 1509

The Town found that the unit was not registered and did not provide a registration number on advertising. The Town requested an order for payment of a \$500.00 fine for each violation and \$75.00 in administrative costs for each citation.

Monica Tezak, daughter-in-law, stated that she did not receive a citation with the letter she received and the Town was not following the same procedure as with other ordinances. She explained that the family was out of town from March 20, 2019 - April 8, 2019 due to a funeral and when she returned, she paid for all short-term rental violations on the same day she received the citation. She did not get a registration number from the Town for over a week.

Magistrate Franchino entered an order for payment of \$250.00 for each case plus \$75.00 in administrative fees for each case.

Property Owner: TEZAK WAYNE P + HELEN C TR FOR TEZAK FAMILY TRUST
SUBJECT: Sec. 10-198 Registration Number Not Present on All Advertising
LOCATION: 50 Chapel St (Unit 1)
STRAP NO: 19-46-24-W3-0120A.0170
CODE OFFICER: Carl Bengé
REFERENCE NO: CE19-0143, Citation 1509

The Town found that the unit was not registered and did not provide a registration number on advertising. The Town requested an order for payment of a \$500.00 fine for each violation and \$75.00 in administrative costs for each citation.

Monica Tezak, daughter-in-law, stated that she did not receive a citation with the letter she received and the Town was not following the same procedure as with other ordinances. She explained that the family was out of town from March 20, 2019 - April 8, 2019 due to a funeral and when she returned, she paid for all short-term rental violations on the same day she received the citation. She did not get a registration number from the Town for over a week.

Magistrate Franchino entered an order for payment of \$250.00 for each case plus \$75.00 in administrative fees for each case.

Property Owner: TEZAK WAYNE P + HELEN C TR FOR TEZAK FAMILY TRUST
SUBJECT: Sec. 10-198 Unregistered Short-term Rental
LOCATION: 50 Chapel St (Unit 3)
STRAP NO: 19-46-24-W3-0120A.0170
CODE OFFICER: Carl Bengé
REFERENCE NO: CE19-0142, Citation 1510

The Town found that the unit was not registered and did not provide a registration number on advertising. The Town requested an order for payment of a \$500.00 fine for each violation and \$75.00 in administrative costs for each citation.

Monica Tezak, daughter-in-law, stated that she did not receive a citation with the letter she received and the Town was not following the same procedure as with other ordinances. She explained that the family was out of town from March 20, 2019 - April 8, 2019 due to a funeral and when she returned, she paid for all short-term rental violations on the same day she received the citation. She did not get a registration number from the Town for over a week.

Magistrate Franchino entered an order for payment of \$250.00 for each case plus \$75.00 in administrative fees for each case. *TF*

Property Owner: TEZAK WAYNE P + HELEN C TR FOR TEZAK FAMILY TRUST
SUBJECT: Sec. 10-198 Registration Number Not Present on all Advertising
LOCATION: 50 Chapel St (Unit 3)
STRAP NO: 19-46-24-W3-0120A.0170
CODE OFFICER: Carl Bengé
REFERENCE NO: CE19-0144, Citation 1510

The Town found that the unit was not registered and did not provide a registration number on advertising. The Town requested an order for payment of a \$500.00 fine for each violation and \$75.00 in administrative costs for each citation.

Monica Tezak, daughter-in-law, stated that she did not receive a citation with the letter she received and the Town was not following the same procedure as with other ordinances. She explained that the family was out of town from March 20, 2019 - April 8, 2019 due to a funeral and when she returned, she paid for all short-term rental violations on the same day she received the citation. She did not get a registration number from the Town for over a week.

Magistrate Franchino entered an order for payment of \$250.00 for each case plus \$75.00 in administrative fees for each case. *MB*

Property Owner: FMB COTTAGE, LLC
SUBJECT: Sec. 10-198 Unregistered Short-term Rental
LOCATION: 2440 Cottage Ave (Cottage 1)
STRAP NO: 19-46-24-W3-0120A.0180
CODE OFFICER: Carl Bengé
REFERENCE NO: CE19-0145, Citation 1511

The Town found that the unit was not registered and did not provide a registration number on advertising. The Town requested an order for payment of a \$500.00 fine for each violation and \$75.00 in administrative costs for each citation.

Monica Tezak, daughter-in-law, stated that she did not receive a citation with the letter she received and the Town was not following the same procedure as with other ordinances. She explained that the family was out of town from March 20, 2019 - April 8, 2019 due to a funeral and when she returned, she paid for all short-term rental violations on the same day she received the citation. She did not get a registration number from the Town for over a week.

Magistrate Franchino entered an order for payment of \$250.00 for each case plus \$75.00 in administrative fees for each case. *ns*

Property Owner: FMB COTTAGE, LLC
SUBJECT: Sec. 10-198 Registration Number Not Present on all Advertising
LOCATION: 2440 Cottage Ave (Cottage 1)
STRAP NO: 19-46-24-W3-0120A.0180
CODE OFFICER: Carl Bengé
REFERENCE NO: CE19-0147, Citation 1511

The Town found that the unit was not registered and did not provide a registration number on advertising. The Town requested an order for payment of a \$500.00 fine for each violation and \$75.00 in administrative costs for each citation.

Monica Tezak, daughter-in-law, stated that she did not receive a citation with the letter she received and the Town was not following the same procedure as with other ordinances. She explained that the family was out of town from March 20, 2019 - April 8, 2019 due to a funeral and when she returned, she paid for all short-term rental violations on the same day she received the citation. She did not get a registration number from the Town for over a week.

Magistrate Franchino entered an order for payment of \$250.00 for each case plus \$75.00 in administrative fees for each case. *ny*

Property Owner: FMB COTTAGE, LLC
SUBJECT: Sec. 10-198 Unregistered Short-term Rental
LOCATION: 2440 Cottage Ave (Cottage 2)
STRAP NO: 19-46-24-W3-0120A.0180
CODE OFFICER: Carl Bengé
REFERENCE NO: CE19-0146, Citation 1511

The Town found that the unit was not registered and did not provide a registration number on advertising. The Town requested an order for payment of a \$500.00 fine for each violation and \$75.00 in administrative costs for each citation.

Monica Tezak, daughter-in-law, stated that she did not receive a citation with the letter she received and the Town was not following the same procedure as with other ordinances. She explained that the family was out of town from March 20, 2019 - April 8, 2019 due to a funeral and when she returned, she paid for all short-term rental violations on the same day she received the citation. She did not get a registration number from the Town for over a week.

Magistrate Franchino entered an order for payment of \$250.00 for each case plus \$75.00 in administrative fees for each case. *no*

Property Owner: FMB COTTAGE, LLC
SUBJECT: Sec. 10-198 Registration Number Not Present on all Advertising
LOCATION: 2440 Cottage Ave (Cottage 2)
STRAP NO: 19-46-24-W3-0120A.0180
CODE OFFICER: Carl Bengé
REFERENCE NO: CE19-0148, Citation 1512

The Town found that the unit was not registered and did not provide a registration number on advertising. The Town requested an order for payment of a \$500.00 fine for each violation and \$75.00 in administrative costs for each citation.

Monica Tezak, daughter-in-law, stated that she did not receive a citation with the letter she received and the Town was not following the same procedure as with other ordinances. She explained that the family was out of town from March 20, 2019 - April 8, 2019 due to a funeral and when she returned, she paid for all short-term rental violations on the same day she received the citation. She did not get a registration number from the Town for over a week.

Magistrate Franchino entered an order for payment of \$250.00 for each case plus \$75.00 in administrative fees for each case. *JK*

Property Owner: ORLANDINI JOSEPH B
SUBJECT: LDC Sec. 6-111 Adopting FBC 105.1 REPEAT Work w/out Permit –
Pavers
LOCATION: 80 Avenue E
STRAP NO: 19-46-24-W4-0070A.0020
CODE OFFICER: Carl Bengé
REFERENCE NO: CE17-0065

The Town requested an order to impose a lien for the daily fines of \$150.00 ordered on August 30, 2017 plus \$175.00 in administrative fees and an order to state that it continued to accrue for each day it was out of compliance.

Mr. Orlandini provided a document (LDO) showing that the property was completed and was in compliance as of October 24, 2018. Town Attorney Herin, Jr. stated that the violation was a repeat violation and he requested a lien for the days of noncompliance. Mr. Orlandini stated that a staff member visited the project and told him a permit was not needed to place pavers over existing concrete. He noted that the violation was issued months after the work was completed.

Magistrate Franchino entered an order to impose a fine of \$150.00 per day from August 30, 2017 to October 24, 2018. He terminated recurring daily fines. Town Attorney Herin, Jr. questioned whether he passed final inspections. Mr. Orlandini stated that it was finalized in October of 2018 and it was a limited building older. Town Attorney Herin, Jr. stated that he still needed a permit even though it was finalized.

Building Services Robert Bogart explained an LDO and a DO. He did not know the history of the case. Magistrate Franchino ordered a continuance to the next hearing agenda. *JK*

Property Owner: GROOM GARY A
SUBJECT: LDC Sec. 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: Carl Bengé
REFERENCE NO: CE17-0264

An order was entered on October 17, 2017 for daily fines of \$150.00 per day. The Town requested an order for an imposition of a lien for the \$150.00 per day plus \$175.00 in administrative costs. No permit had been obtained.

Gary Groom stated that his home burnt down and he had an engineer's report confirming that the concrete pilings were structurally good to rebuild on. He was not aware he needed a permit since the pilings were already permitted by the Town decades ago. He noted that the legal paperwork was sent to his mother who has dementia. He received designs for the building and he will submit them to Town for review so he can rebuild on the columns. Mr. Groom indicated that the Town had not inspected the columns.

Magistrate Franchino stated that Mr. Groom could appeal to Town Council regarding mitigating the lien. Town Attorney Herin, Jr. requested a continuance without a date to investigate the matter. Magistrate Franchino agreed to a continuance. *UK*

Property Owner: PERSAUD PROPERTIES FL INVESTMENT
SUBJECT: LDC Sec. 34-621 Operating Without a Use Permit
LOCATION: 1046 Estero Blvd
STRAP NO: 24-45-23-W3-00016.0000
CODE OFFICER: Carl Bengé
REFERENCE NO: CE17-0707

The Town requested an order for an imposition of a lien concerning a previous order on April 24 (no year stated) for \$500.00 per day. The property was not in compliance. The lien amount requested was \$80,000.00. Magistrate Franchino entered an order to impose a lien in the amount of \$80,000.00 without continuing to accrue. *UK*

Property Owner: CALCAP LLC
SUBJECT: LDC Sec. 6-111 Adopting FBC 105.1 Work w/out Permit – Remodel
LOCATION: 14 Pepita St
STRAP NO: 33-46-24-W2-0090B.0120
CODE OFFICER: Carl Bengé
REFERENCE NO: CE17-0807

The Town requested an order for an imposition of a lien regarding a previous compliance order dated April 18, 2018 with daily fines of \$150.00 plus \$275.00 in administrative fees. The property was not in compliance.

Dave Helm, owner, stated that he went through two different contractors and several different application attempts, which were not approved. He noted that the house was scheduled to be demolished now because he could no longer afford to remodel and he would sign the house over to the Town. Town Attorney Herin, Jr. stated that demolition would put him into compliance and he could petition Town Council for a mitigation.

Magistrate Franchino entered an order for a lien (approximately \$60,000.00) and he encouraged Mr. Helm to work with the Town. *UK*

Property Owner: DIBIASI LEO J TR FOR LEO J + VALERIE J DIBIASI TRUST
SUBJECT: LDC Sec. 6-111 Adopting FBC 105.1 REPEAT-Work w/out Permit –Porch
LOCATION: 205 Sterling
STRAP NO: 33-46-24-W2-0080A-0160
CODE OFFICER: Carl Bengé
REFERENCE NO: CE18-0246

A compliance agreement dated May 23, 2018 ordered daily fines of \$250.00. The Town requested an order to lien. Town Attorney Herin, Jr. stated that the request was to reimpose an existing lien because the property continued to be in noncompliance.

Mr. Pellegrino stated that he completed the project in August of 2016 and it was finalized. He discussed how long it took to obtain permits. He noted that Mr. Bogart assured him he did not have to appear at the hearing today, but if he did not show up, he would be in violation. He described his history with the Town and his frustrations. He suggested that someone sit down with him to resolve the issue.

Magistrate Franchino questioned why he signed the compliance agreement in 2018. Mr. Pellegrino stated that he was confused regarding the compliance agreement. Mr. Dibiasi stated that after the project was completed and finalized, they were given another notice that the property was not in compliance with the 50% rule. Mr. Pellegrino stated that all permits were signed off on in January 4, 2019. He provided copies of several permits.

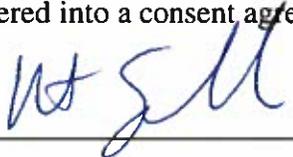
The Town requested a lien for the amount of fines accrued.

Mr. Pellegrino questioned what work had to be done since the project was completed.

Town Attorney Herin, Jr. requested an order finding noncompliance for 107 days up to January 4, 2019. Magistrate Franchino entered the order to lien and noted that they could appeal the decision. He included an administrative fee of \$175.00. *Jo*

CE18-0666 and CE18-0902 were continued.

Cases 27-63 entered into a consent agreement per Town Attorney Herin, Jr.

Signature: 

- End of document