

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: Myrnabelle Roche

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

CASES TO BE HEARD:

Property Owner: ALLGOOD, CURT *NS*
SUBJECT: Parking Ticket/Obstruction of Roadway
CODE SECTION: CODE 28-20 (2) N
LOCATION: School St.
BASE OFFICER: Nello Cernoia
REFERENCE NO: Citation 73114790

Officer Cernoia issued a citation on March 29, 2019 and provided photos. The respondent was not in attendance. The Town requested payment of the \$75.00 fine and \$75.00 in administrative fees. Magistrate Roche found that a violation existed and ordered the respondent to pay the \$75.00 fine plus \$75.00 in administrative fees within 10 days.

Property Owner: ALLGOOD, CURT *NS*
SUBJECT: Parking Ticket/Obstruction of Roadway
CODE SECTION: CODE 28-20 (2) N
LOCATION: Mango St.
BASE OFFICER: Nello Cernoia
REFERENCE NO: Citation 73114812

Officer Cernoia issued a citation on March 29, 2019 and provided photos. The respondent was not in attendance. The Town requested payment of the \$75.00 fine and \$75.00 in administrative fees. Magistrate Roche found that a violation existed and ordered the respondent to pay the \$75.00 fine plus \$75.00 in administrative fees within 10 days.

Property Owner: ALLGOOD, CURT *NS*
SUBJECT: Parking Ticket/Obstruction of Roadway
CODE SECTION: CODE 28-20 (2) N

LOCATION: Mango St.
BASE OFFICER: Nello Cernoia
REFERENCE NO: Citation 73114823

Officer Cernoia issued a citation on March 29, 2019 and provided photos. The respondent was not in attendance. The Town requested payment of the \$75.00 fine and \$75.00 in administrative fees. Magistrate Roche found that a violation existed and ordered the respondent to pay the \$75.00 fine plus \$75.00 in administrative fees within 10 days.

Property Owner: HAKE, JASON W. + LISA S. *nr*
SUBJECT: LDC Table 34-1 and Table 34-2 Weekly Rental in a Monthly Zone
LOCATION: 110 Hercules Dr.
STRAP NO: 29-46-24-W3-0060A.0050
CODE OFFICER: Carl Bengé
REFERENCE NO: CE19-0059

Manager Burcher stated that online advertisements showed weekly rentals in a monthly zone. The Town received complaints and the Sheriff's Office had been called regarding issues with the guests.

A notice of violation was sent via certified mail on March 12, 2019 and claimed on April 3, 2019. The notice was posted at Town Hall on March 12, 2019 and at the property on March 14, 2019. A notice of hearing was sent via certified mail on May 5, 2019 and it was not claimed. The notice was posted at Town Hall and on the property May 7, 2019.

If the hearing found a violation, the Town requested an order to cease weekly rentals; otherwise, a fine of \$250.00 per day plus \$175.00 in administrative costs will be imposed. If the order of the Magistrate was not complied with, the matter would be included in the September 19, 2019 agenda for an imposition of lien.

Community Development Director Jason Green testified that the property was not grandfathered because the previous owner did not maintain a yearly registration.

Beverly Grady from Roetzel Andress represented the respondents. She questioned Director Green regarding short-term rental permits in 2018 and March of 2019. Town Attorney Herin, Jr. referred to Section 34-2392 regarding the registry of pre-existing weekly rentals. Ms. Grady submitted a document indicated monthly rentals.

Ms. Grady provided information and exhibits regarding provisions in the Land Development Code. She explained why the property was allowed to rent on a weekly basis. She indicated that Mr. Hake personally renewed the weekly registration on December 11, 2018 and staff assured Mr. Hake that he registered his property for weekly rentals. She reviewed enforcement of penalties and noted that there had never been a 12-month period where there had not been weekly rentals in excess of one month. She stated that the grandfathered right was not lost. She displayed a map from the Town's website indicating that the property was approved for weekly rental and she discussed the origins of the map. She reviewed affidavits from previous Community Development employees regarding the map. She stated that Mr. Hake and his real estate agent conducted due diligence regarding the short-term rental map, which showed his property was entitled to weekly short-term rentals. She stated that a weekly rental permit was issued in March of 2019 and was not revoked. She requested that code enforcement withdraw the violation or that the Magistrate

find that the Town did not sustain its burden of proof. She requested subpoenas in the event the Town wished to cross examine previous Town employees. Ms. Grady provided records and communications regarding the history of the Town's short-term rental map. She stated that the map disappeared from the website, which prompted a public records request from the Town Clerk. Mr. Hake explained the background of his case and meetings with Town staff. He provided documents he received from the Town and relayed conversations with Director Green. He confirmed that Exhibit 4 was a permit from the Town and he relied on the short-term rental map when purchasing his property.

Town Attorney Herin, Jr. cross-examined the respondent. Mr. Hacke noted that he did not receive written communication from the Town prior to closing on the property other than the map on the website. Magistrate Roche stated that the map was not referenced in the ordinance and could be considered more of a guide. Ms. Grady requested that the Magistrate issue subpoenas for former employees. Magistrate Roche stated that her jurisdiction was limited to the four corners of the ordinance and the map was not part of the ordinance. She declined to order subpoenas.

Brandon Souder, owner of Bay Point Real Estate and Bay Point Vacation Rentals, worked with Mr. Hake. Mr. Souder stated that he relied on the map and called the town to verify that it was in a weekly rental zone. Exhibit 5 illustrated weekly rentals from 2016, 2017 and 2018 at the property. Mr. Souder stated that he received compensation in 2018 for weekly rentals from the previous rental agency. He reviewed his experience with rentals on the beach and stated that he and other realtors relied on the map in the past and it was accurate.

Town Attorney Herin, Jr. confirmed that Mr. Souder did not receive any written communication from the Town.

Ms. Grady discussed renting without a renewal registration and maintaining the grandfathered right per the ordinance. She concluded that the property owner relied on the Town, obtained a permit in December of 2018 and in March of 2019 for weekly rentals and it was valid today. She did not see how they could find a violation for weekly rentals.

Mr. Hake stated that he did not speak to Ms. Schumacher; she emailed him the short-term rental form on March 6, 2019. Mr. Hake spoke to Director Green on March 10 and he did not make reference to the form but he informed Mr. Hake that he was in a monthly rental zone.

Director Green verified the conversation and conceded that the weekly registration was done in error. Magistrate Roche questioned whether the STR number was revoked in writing. Director Green was not aware of any letter. Town Attorney Herin, Jr. stated that the STR number reflected monthly rentals, not weekly.

Director Green did not answer questions regarding enforcement of penalties because he was not in code enforcement. Discussion was held regarding violations and penalties. Director Green did not inform Mr. Hake that the 2019 approved form was revoked.

Ms. Grady objected to witnesses testifying since the issue of renting was not in question. Magistrate Roche allowed testimony.

- Nancy Slater, Hercules resident, objected to the trash piling up. She requested that instructions be posted on the refrigerator regarding trash pickup. She stated that the only issue was the garbage.

- Mary Campbell, Hercules resident, described noise issues at the property.

Town Attorney Herin, Jr. stated that the use was not authorized and the owner was notified. He noted the map was for limited purposes and the respondent did not provide written evidence from the Town regarding weekly short-term rentals. He remarked that the property owner was notified when the Town discovered the error. He stated that the prior owner failed to renew the registration

for several years and although short-term rentals continued, they were illegal and not grandfathered. The Town requested that the Magistrate find the property owner in violation, assess the appropriate fine and cease weekly rentals.

Ms. Grady reiterated that the Town approved the application and it was not revoked. She noted that if no violations occurred within a three-year period, the property owner could start over. She requested that the Magistrate find that Mr. Hake was not guilty of a violation. She commented that the property owner used good faith efforts to comply with the regulations. She believed Mr. Hake was entitled to short-term rentals.

Magistrate Roche found that the property owner was in violation of the short-term rental ordinance. She did not issue a fine and allowed the property owner to complete the weekly rentals for the next 30 days. After 30 days, there shall be only monthly rentals as the property was not grandfathered. In the event the property owner did not comply in 30 days, a \$250.00 fine per day will be imposed.

Property Owner: HAKE, JASON W. + LISA S. *WJ*
SUBJECT: LDC Table 34-1 and Table 34-2 Weekly Rental in a Monthly Zone
LOCATION: 110 Hercules Dr.
STRAP NO: 29-46-24-W3-0060A.0050
CODE OFFICER: Carl Bengé
REFERENCE NO: CE19-0397, Citation 1295, Citation 1298, Citation 1064, Citation 1067
and Citation 0866

Ms. Grady from Roetzel and Andress represented Mr. Hake. She referred to citation procedures and penalties in Section 2-430 and requested that the citations be sent to the County Court. Magistrate Roche granted Ms. Grady's request.

Property Owner: BELGER PROPERTIES PARTNERSHIP *WJ*
SUBJECT: LDC Sec. 34-621 Allowable Use - Operation of Parking Lot
LOCATION: 1741 Estero Blvd.
STRAP NO: 19-46-24-W4-0080B.0010
CODE OFFICER: Carl Bengé
REFERENCE NO: CE18-0795

The property was inspected on September 24, 2018 and former officer Kontomanolis found that the respondent was operating a parking lot in violation of code. The action necessary to correct the violation is to secure the required permit. A notice of violation was sent via certified mail on October 2, 2018 and it was claimed. It was posted at Town Hall on October 2, 2018 and on the property October 4, 2018. A notice of hearing was sent via certified mail on May 17, 2019 and it was not claimed. Manager Burcher stated that the post office listed delivery on May 20, 2019. The notice was posted at Town Hall and at the property on May 17, 2019.

The property owner filed for a permit but it was denied due to the lack of buffers. If the hearing found a violation, the Town requested an order to require the owner to cease operating a paid parking lot; otherwise, a fine of \$250 per day beginning June 21, 2019 would be imposed plus \$175.00 in administrative costs. If the Magistrate's order was not complied with, the matter will be placed on the September 19, 2019 agenda for an order to lien.

Officer Bengé stated that the violation still existed and he provided photos. He indicated that he did not see cars parked in the lot but the signs remained.

Attorney Matt Uhle represented the property owner. He reviewed the citation and noted that it stated his client was operating as a parking lot in violation of code. Mr. Uhle stated that the accessory parking lot was a permitted use in the downtown district and it was adjacent to his retail business. He indicated that the respondent was allowed to rent out parking to the general public. Mr. Uhle stated his client was cited under a section that argued that parking lots as a whole were not permitted in the downtown district and that was not true. He felt the citation was incorrect and should be dismissed.

Town Attorney Herin, Jr. agreed that accessory parking was allowed. He stated that the use taking place was not consistent with the section of code cited. Mr. Uhle disagreed because a parking lot was a permitted use in the district.

Magistrate Roche questioned whether the parking lot was primarily used for the public or patrons of the adjacent business. Mr. Uhle replied that the primary use was for patrons, but during peak periods, certain spaces were rented out.

Discussion was held regarding special exceptions in the Table under Section 34-2019. Mr. Uhle stated that the Table did not specifically reference accessory parking lots but Section 34-2011 made it clear that single purpose parking lots were considered to be accessory uses and could be built to serve any permitted principal use on the same parcel of land.

Mr. Uhle stated that his client never received an approval or denial for the use permit application. Gram Belger, property owner, stated that he applied for shared permanent parking on January 31, 2019 but had not heard back from the Town. Discussion was held regarding shared permanent parking and single purpose parking lots.

Mr. Berger reviewed past meetings with the Town regarding his parking lot. He stated that he was approved to rent out extra parking spots and operated it for a year before being cited for oversized signs.

Town Attorney Herin, Jr. noted that there were landscape requirements for parking lots. Mr. Uhle responded that his client was not aware of requirements since he had not heard back from the Town regarding his submitted application in January. Mr. Uhle commented that they would have to hire an engineer to determine whether they could install landscape without losing spaces.

Town Attorney Herin, Jr. suggested that they give the respondent 60 days to come into compliance. He requested that the commercial use cease until compliance. Mr. Uhle requested that the respondent be allowed to continue to rent spaces while the variance application was being reviewed.

Magistrate Roche found that a violation existed and continued to exist. She imposed no fine and granted the property owner 60 days to go through the variance process and she ordered the property owner to cease and desist from having any paid parking at the location; however, his customers were allowed to continue using the parking lot. She stated that the property owner was allowed to request more time if needed. In the event the property owner failed to comply with the order, a \$50.00 per day fine will be imposed. She also ordered the Town to provide the property owner with documentation regarding the denial of the permit.

Property Owner: PFITZ II, LLC *US*
SUBJECT: LDC Sec. 304.2 Property Maintenance
LOCATION: 2633 Estero Blvd.
STRAP NO: 19-46-24-W3-0020C.0160
CODE OFFICER: Carl Benge
REFERENCE NO: CE16-0350

Manager Burcher stated that the case was a recall case from January 25, 2017 for a lien already filed. The Town requested that the order recorded on March 22, 2017 be vacated in order to refile the lien in the amount of \$57,925.00.

Barry Frank and Heather DeHaven from AAA Coastal Management were the property managers for the property.

Magistrate Roche ordered that the lien recorded on March 22, 2017 be vacated.

Heather stated that the violations were abated a couple of years ago. Magistrate Roche questioned why it took them 385 days to bring the property into compliance after the previous order had been entered. Heather was not aware of the violations until June 12, 2019. Neither Heather nor Mr. Frank were employed at the company at the time the violations occurred. Mr. Frank noted that the property was vacant for a long time and the contractor involved was no longer working with the company. Mr. Frank was not aware of any violations and he questioned whether the contractor was aware of previous violations. He stated that the owner lived in Illinois.

Magistrate Roche found that the previous order dated January 25, 2017 was not complied with within the time stated therein; therefore, fines accrued in the amount of \$57,925.00 were based on a compliance date of March 7, 2018. She certified the order as a lien against the property and the lien will not continue to accrue as a result of the property being in compliance.

Property Owner: ORLANDINI, JOSEPH *us*
SUBJECT: LDC Sec. 6-111, Adopting FBC 105.1 Work without Permit – Pavers
LOCATION: 80 Avenue E
STRAP NO: 19-46-24-W4-0070A.0020
CODE OFFICER: Carl Benge
REFERENCE NO: CE17-0065

Manager Burcher stated that the case was brought to the previous Magistrate on July 26, 2017 and an order was issued citing work without permit for pavers. The violation was brought into compliance 310 days after the order for a total of \$46,675.00. The Town requested an order to lien.

Mr. Orlandini stated that he was in compliance on July 12, 2018. He stated that prior to installing pavers, he consulted with the reviewer at the Town. He was told that he did not need a permit to cover an existing concrete patio with pavers. After the project was completed Molly Jacobs inspected the property and Joe Kontomanolis issued a citation. As a result, Mr. Orlandini submitted two different permit applications on May 25, 2017 because the Town was not sure which permit was needed. Mr. Orlandini stated that he was continually told month after month that the Town would get to it. After meeting with Jason Green, he was told to switch the permit to an LDO and Mr. Green helped him to complete the process.

Mr. Orlandini stated that it came up for a lien last month and he was told that he needed a building permit after it was finalized. He indicated that the Town voided the driveway permit and the LDO was implemented.

Town Attorney Herin, Jr. stated that the only issue was when the property was brought into compliance from the previous order. Mr. Orlandini did not dispute that there was a time period involved, but he would like the fine to be reflective of the violation and the terms of how it ended up where it was. Mr. Orlandini pointed out that the Magistrate who appeared last month tabled the issue for 60 days due to circumstances involved. He indicated that he was told to apply for another permit.

Magistrate Roche found that the order dated July 26, 2017 was not complied within the timeframe stated therein and fines had accrued in the amount of \$46,675.00 based on a compliance date of July 12, 2018. She found that the property owner had presented sufficient evidence of mitigating circumstances and she reduced the amount of the lien imposed to \$500.00. She certified the July 26, 2017 code enforcement order in the amount of \$500.00 and will become a lien against the property.

Property Owner: PERSAUD PROPERTIES FL INVESTMENT, LLC *US*
SUBJECT: LDC Sec. 308.4 Property Maintenance-Dumpster/Compactor not Screened
LOCATION: 1046 Estero Blvd.
STRAP NO: 24-46-23-W3-00016.0000
CODE OFFICER: Carl Bengé
REFERENCE NO: CE18-0446

Manager Burcher stated that the property was inspected on May 30, 2018 and found that the dumpster was not screened. A notice of violation allowed 60 days for compliance and was sent via certified mail on June 6, 2018 and it was not claimed. It was posted at Town Hall on June 28, 2018 and at the property on July 19, 2018. Officer Bengé inspected the property on March 20, 2019 and found the violation still existed. A notice of hearing was sent via certified mail on March 21, 2019 and it was returned unclaimed on April 15, 2019. It was posted at the property on March 25, 2019 and at Town Hall on March 27, 2019. Officer Bengé inspected the property on June 5, 2019 and the violation still existed.

If the hearing found a violation, the Town requested an order requiring the property owner to obtain proper permits for screening around the dumpster and complete inspections by July 20, 2019; otherwise, a fine of \$250.00 per day plus \$175.00 administrative costs will be imposed.

Officer Bengé provided photos from June 5, 2019 that showed the property was in violation. He was not aware of pending applications.

Mr. Orlandini, property manager, noted that the dumpster was an enclosed self-contained compactor system and thought screening was not required. The photos reflected backed up trash during season. He explained that the compactor was frequently blocked by vehicles, which prevented waste management from accessing the compactor. He stated that he was unaware of changes by the Town.

Magistrate Roche noted that the problem had existed for almost a year. Mr. Orlandini noted that his partner was in the process of applying for a permit and issues with the parking lot exacerbated the compactor issue.

Magistrate Roche found that a violation existed and continued to exist. She ordered the property owner to obtain a permit and pass inspections within 45 days; otherwise, a fine of \$250 per day will be imposed. She ordered payment of \$75.00 in administrative fees.

Property Owner: MARKOVICH, GEORGE + AMY *NS*
SUBJECT: LDC Sec. 6-111, Adopting FBC 105.1 Work w/out Permit – Roof
LOCATION: 1510 Estero Blvd.
STRAP NO: 19-46-24-W4-0070C.0020
CODE OFFICER: Carl Bengé
REFERENCE NO: CE18-0444

Manager Burcher stated that the case was brought before the Magistrate on October 16, 2018 and an order was issued citing the owner for work without a permit – roof. The owner was ordered to secure permits and pass inspections by February 13, 2019; otherwise, a fine of \$200.00 per day plus administrative costs of \$275.00 would be imposed. The building has since been demolished but it was not finalized. Manager Burcher stated that the fines continued to accrue and totaled \$25,675.00. The Town requested an order to lien.

Magistrate Roche found that the Magistrate's order of October 16, 2018 had not been complied with and the property was still out of compliance. Fines accrued were \$25,675.00 and would continue to accrue at \$200.00 per day until the violation was corrected. She ordered a lien on the property.

Property Owner: GRESSMAN, HAROLD H. + LOIS M. *NS*
SUBJECT: LDC Sec. 6-111, Adopting FBC 105.1 Work w/out Permit – Shed
LOCATION: 8512 Lagoon Rd.
STRAP NO: 03-47-24-W3-00216.0000
CODE OFFICER: Carl Bengé
REFERENCE NO: CE17-0210

Manager Burcher stated that the case was brought before the Magistrate on August 30, 2017 and was a recall case. The Town requested that the Magistrate vacate the previous lien and record a new lien. Magistrate Roche vacated the lien recorded on October 6, 2017.

Manager Burcher stated that the violation was heard on June 28, 2017 and the owner was ordered to secure permits and pass inspections by July 18, 2017; otherwise a fine of 200 per day plus \$175.00 administration costs would be imposed. The violation was abated on August 29, 2017. The Town requested an order to lien in the amount of \$8,575.00.

Tom Gressman, son of owners, indicated that he was under the impression he did not have to apply for a permit to build the shed. After receiving a violation, he applied for a permit on April 28, 2017. Lee County eventually denied the permit due to a violation to the flood zone. Mr. Gressman underwent surgery and took down the shed as soon as he was physically able. Mr. Gressman requested that Magistrate Roche not impose a lien.

Magistrate Roche found that the Magistrate's order of June 28, 2017 was not complied with and the property was out of compliance for 42 days for a total of \$8,575.00; however, the owner took relative immediate action to abate the violation and she ordered payment of \$1,000.00 within 30 days or the amount would revert back to \$8,575.00 and would be recorded as a lien.

Property Owner: BEL-AIR BEACH CLUB CONDO TIMES *us*
SUBJECT: LDC Sec. 14-75 Sea Turtle Conservation Sea Turtle Lighting not in Compliance
LOCATION: 782 Estero Blvd.
STRAP NO: 24-46-23-W3-03400-00CE
CODE OFFICER: Rae Burns
REFERENCE NO: CE19-0239, Citation 1323

Officer Burns inspected the property and took photos on May 2 and 16, 2019 and found the sea turtle lighting was not in compliance. The action necessary to correct the violation was to change the white lights with approved bulbs. A notice of violation was sent to the owner and registered agent on May 21, 2019 and posted at the Town and the property on May 21, 2019. Officer Burns stated that she inspected the property on June 18, 2019 and the parking lights were abated. Some lighting in the palms still existed, but changing the direction of the lights would abate the problem. She indicated that she issued a warning on May 2, 2019. If the hearing found a violation, the Town would request a finding of fact, replace the current lights with proper sea turtle lighting and pay a fine of \$100.00 plus \$75.00 in administrative fees. Magistrate Roche found that a violation existed and imposed a fine of \$100.00 and \$75.00 in administrative costs within 10 days.

Property Owner: ROYAL BEACH CLUB CONDO TIMESHA *us*
SUBJECT: LDC Sec. 14-75 Sea Turtle Conservation Sea Turtle Lighting not in Compliance – stairwell lights
LOCATION: 802 Estero Blvd.
STRAP NO: 24-46-23-W3-02900.00CE
CODE OFFICER: Rae Burns
REFERENCE NO: CE19-0240, Citation 1326

Officer Burns inspected the property and took pictures on May 2 and 16, 2019 and found the sea turtle lighting was not in compliance. The action necessary to correct the violation was to change the white lights with approved bulbs. A notice of violation was sent via certified mail to the owner and registered agent on May 21, 2019 and posted on the property on May 21, 2019. Office Burns stated that she inspected the property on June 18, 2018 and the stairwell lights were abated. She noted that globe lights in the patio area were not in compliance. She noted that she issued a warning on May 2, 2019. If the hearing found a violation, the Town would request a finding of fact, replace the current lights with proper sea turtle lighting and pay a fine of \$100.00 plus \$75.00 in administrative fees. Magistrate Roche found that a violation existed and imposed a fine of \$100.00 plus \$75.00 in administrative costs within 10 days.

Property Owner: ROYAL BEACH CLUB CONDO PH II
SUBJECT: LDC Sec. 14-75 Sea Turtle Conservation Sea Turtle Lighting not in Compliance – globe lights
LOCATION: 800 Estero Blvd.
STRAP NO: 24-46-23-W3-03200.00CE

CODE OFFICER: Rae Burns
REFERENCE NO: CE19-0241, Citation 1325

MB

Officer Burns inspected the property and took pictures on May 2 and 16, 2019 and found the sea turtle lighting was not in compliance. The action necessary to correct the violation was to change the white lights with approved bulbs. A notice of violation was sent via certified mail to the owner and registered agent on May 21, 2019 and posted on the property on May 21, 2019.

Office Burns stated that she inspected the property on June 18, 2018 and the globe lights in the patio area were not in compliance. She noted that she issued a warning on May 2, 2019.

If the hearing found a violation, the Town would request a finding of fact, replace the current lights with proper sea turtle lighting and pay a fine of \$100.00 plus \$75.00 in administrative fees.

Magistrate Roche found that a violation existed and imposed a fine of \$100.00 plus \$75.00 in administrative costs within 10 days.

Property Owner: BENCIN ENTERPRISES INC
SUBJECT: LDC Sec. 14-75 Sea Turtle Conservation Sea Turtle Lighting not in Compliance
LOCATION: 1010 Estero Blvd.
STRAP NO: 24-46-23-W3-00018.0000
CODE OFFICER: Rae Burns
REFERENCE NO: CE19-0247, Citation 1332

MB

Officer Burns inspected the property and took pictures on May 2 and 16, 2019 and found the sea turtle lighting was not in compliance. The action necessary to correct the violation was to apply window tint to windows, use tinted glass or close binds and curtains. A notice of violation was sent via certified mail to the owner and registered agent on May 20, 2019 and posted on the property on May 21, 2019.

Office Burns stated that she inspected the property on June 18, 2018 and the issue was abated but the fine was not paid. She noted that she issued a warning on May 2, 2019.

If the hearing found a violation, the Town requested that a fine of \$100.00 be paid plus \$75.00 in administrative fees.

Magistrate Roche ordered that a fine of \$100.00 plus \$75.00 in administrative costs be paid within 10 days.

Property Owner: BAY TO BEACH ASSN
SUBJECT: LDC Sec. 14-75 Sea Turtle Conservation Sea Turtle Lighting not in Compliance
LOCATION: 742 Estero Blvd.
STRAP NO: 24-46-23-W3-03900.00CE
CODE OFFICER: Rae Burns
REFERENCE NO: CE19-0235, Citation 1320

MB

Officer Burns inspected the property and took pictures on May 2 and 16, 2019 and found the sea turtle lighting was not in compliance. The action necessary to correct the violation was to replace

white lights with approved bulbs. A notice of violation was sent via certified mail to the owner and registered agent on May 20, 2019 and posted on the property on May 21, 2019. Office Burns stated that she inspected the property on June 18, 2018, the violation continued to exist and the fine was not paid. She noted that she issued a warning on May 2, 2019. If the hearing found a violation, the Town requested a finding of fact and the owner must change the white lights with approved bulbs and pay a fine of \$100.00 plus \$75.00 in administrative fees. Magistrate Roche found that a violation existed and was still in violation. She ordered that a fine of \$100.00 plus \$75.00 in administrative costs be paid within 10 days and that the property come into compliance at that time.

Property Owner: GANIM PROPERTIES LLC 
SUBJECT: LDC Sec. 14-75 Sea Turtle Conservation Sea Turtle Lighting not in Compliance
LOCATION: 1240 Estero Blvd.
STRAP NO: 19-46-24-W4-0140A.0010
CODE OFFICER: Rae Burns
REFERENCE NO: CE19-0255, Citation 1333

Officer Burns inspected the property and took pictures on May 2 and 16, 2019 and found the sea turtle lighting was not in compliance. The action necessary to correct the violation was to replace white lights with approved bulbs. A notice of violation was sent via certified mail to the owner and registered agent on May 20, 2019 and posted on the property on May 21, 2019. Office Burns stated that she inspected the property on June 18, 2018, the violation continued to exist and the fine was not paid. She noted that she issued a warning on May 2, 2019. If the hearing found a violation, the Town requested a finding of fact and the owner must change the white lights with approved bulbs and pay a fine of \$100.00 plus \$75.00 in administrative fees. Magistrate Roche found that a violation existed and was still in violation. She ordered that a fine of \$100.00 plus \$75.00 in administrative costs be paid within 10 days and that the property come into compliance at that time.

Property Owner: MCCARTY, HAROLD + DORIS D 
SUBJECT: LDC Sec. 6-111, Adopting FBC 105.1 Work w/out Permit – Stairs
LOCATION: 5247 Estero Blvd.
STRAP NO: 33-46-24-W1-00203-0150
CODE OFFICER: Carl Bengé
REFERENCE NO: CE19-0042

The property was inspected on February 20, 2019 and work was being done without a permit – stairs. The action necessary to correct the violation was to secure a permit and pass inspections. A notice of violation was sent via certified mail to the owner on February 27, 2019, it was posted at Town Hall on February 27, 2019 and on the property on March 1, 2019. A notice of hearing was sent via certified mail to the owner on May 13, 2019 and claimed on May 16, 2019. It was posted at Town Hall on May 13, 2019 and on the property May 14, 2019. If the hearing found a violation, the Town requested an order to secure permits and inspections within 30 days; otherwise a daily fine of \$250.00 will be imposed plus \$75.00 in administrative

costs. If the order was not complied with the matter will be on the September 19, 2019 agenda for a lien hearing.

Officer Bengé stated that no permits had been issued and he had contact with the owner. Magistrate Roche found that a violation did exist and continued to exist. She ordered the owner to come into compliance within 30 days; otherwise a fine of \$250.00 per day until the property came into compliance. She also ordered payment of \$75.00 in administrative fees.

Property Owner: MCCARTY HAROLD + DORIS D *Mr*
SUBJECT: LDC Sec. 6-111, Adopting FBC 105.1 Work w/out Permit –Sign
LOCATION: 5247 Estero Blvd.
STRAP NO: 33-46-24-W1-00203-0150
CODE OFFICER: Carl Bengé
REFERENCE NO: CE19-0055

The property was inspected on March 5, 2019 and work was being done without a permit – sign. The action necessary to correct the violation was to secure a permit and pass inspections. A notice of violation was sent via certified mail to the owner on March 6, 2019, it was posted at Town Hall on March 12, 2019 and at the property on March 12, 2019. A notice of hearing was sent via certified mail to the owner on May 1, 2019 and received on May 4, 2019. It was posted at Town Hall on May 1, 2019 and on the property May 3, 2019.

If the hearing found a violation, the Town requested an order to secure permits and inspections within 30 days; otherwise a daily fine of \$250.00 will be imposed plus \$75.00 in administrative costs. If the order was not complied with the matter will be on the September 19, 2019 agenda for a lien hearing.

Officer Bengé stated that no permits had been issued and he had contact with the owner. Magistrate Roche found that a violation did exist and continued to exist. She ordered the owner to come into compliance within 30 days by obtaining permits; otherwise a fine of \$250.00 per day will be imposed. She ordered payment of \$75.00 in administrative fees.

Property Owner: MSV-HOLDING TRUST CORP *Ms*
SUBJECT: LDC Sec. 6-111, Adopting FBC 105.1 Work w/out Permit – Structure
Attached to Back of House
LOCATION: 117 Hibiscus Dr.
STRAP NO: 29-46-24-W2-01438.0000
CODE OFFICER: Carl Bengé
REFERENCE NO: CE17-0093

The case was brought before the Magistrate on August 30, 2017 and a finding of fact was established that the order was not complied with. It was abated on July 19, 2017 but the owner did not pay the administrative fees of \$175.00. The order showed that on June 20, 2017, fines of \$150.00 per day were to begin and they came into compliance on August 31, 2017, after 29 days of noncompliance, which totaled \$4,525.00. The Town requested that the previous lien be abated and a new lien ordered.

Magistrate Roche vacated the prior lien recorded on October 6, 2017. She ordered a lien in the amount of \$4,525.00 and it will not accrue.

Property Owner: MCCARTY, HAROLD + DORIS D. *ur*
SUBJECT: LDC Sec. 6-111, Adopting FBC 105.1 Work without Permit – Fence
LOCATION: 5247 Estero Blvd.
STRAP NO: 33-46-24-W1-00203.0150
CODE OFFICER: Carl Bengé
REFERENCE NO: CE18-0227

This case was brought before the Magistrate on August 30, 2018 and a finding of fact ordered that the owner was in violation of work without a permit – fence. The order was to obtain permits and pass inspections by October 17, 2018; otherwise a fine of \$25.00 per day would be imposed plus \$275.00 in administrative fees. A permit was applied for but was under review. The fines were accruing and the total was \$6,450.00. The Town requested an order to lien. The Town decided to continue the case to help the owners come into compliance.

CE19-0387, Citation 1028 was dismissed. CE17-0285 was continued. CE17-0870 was on the agenda in error. The following cases were not addressed at this hearing: CE18-0666; CE18-0814; CE18-0901; CE18-0902; CE18-0920; CE17-0845; CE19-0003, Citation 0520; CE19-0037; CE19-0050; CE19-0057; CE19-0091; CE18-0446; CE19-0337, Citation 0522 and CE19-0338, Citation 0523.

Signature: *ASDL*

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