

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

Thursday, September 19, 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:

Violator: MAZUREK, SHANE
SUBJECT: Obstruction of Roadway
CODE SECTION: 28-20(2)L
LOCATION: Estero Blvd.
BASE OFFICER: Sheila Conroy
REFERENCE NO: Citation 72632604

On July 27, 2019 at 8:14 p.m. Officer Conroy observed a Dodge pick-up truck blocking the bike lane. She issued a citation for obstruction of roadway and provided pictures of the violation. Mr. Mazurek stated that his citation referenced 28-20N, but the violation document referred to 28-20L. He questioned whether he was being cited for parking in a handicapped spot or for obstructing the roadway. He indicated that he had a permit to park in a handicapped space. Town Attorney Herin, Jr. stated that the Town cited him for 28-20N, which was blocking the road. Mr. Mazurek stated that his truck was pulled up as far as it could go and the handicapped parking sign should have indicated the space was for compact vehicles only. The Town requested the amount of the fine and administrative costs. Magistrate Roche found a violation did exist and she ordered the respondent to pay the fine of \$50.00 and \$75.00 in administrative fees.

Property Owner: HUGHES MICHAEL + JENNIFER
SUBJECT: LDC Sec. 10-198 Unregistered Short-Term Rental
LOCATION: 602 Estero Blvd.
STRAP NO: 24-46-23-W4-0060D.015A
CODE OFFICER: Eli Lee
REFERENCE NO: CE19-0406, Citations 1117, 1123, 1455, 1463, 1467, and 1118

Officer Stout noted the property owner was in compliance. He stated that he issued warnings, but they did not register with the Town promptly. Town Attorney Herin, Jr. submitted paperwork confirming that the property was advertised and occupied as a short-term rental at the time citations were issued.

Mr. Hughes stated that he thought they were covered under the condominium's registration guidelines. They were sent a notice via email to an address that was not in service. They never received the information and were not at the property, or they would have paid the \$100.00 fee. Town Attorney Herin, Jr. commented that the warnings and citations were sent to the address provided by the property owner on the advertisement. The Town requested that fines be paid plus \$75.00 in administrative costs.

Magistrate Roche found that a violation did exist and she ordered the respondent to pay a fine of \$1,500.00 plus \$75.00 in administrative fees.

Property Owner: HUGHES MICHAEL + JENNIFER
SUBJECT: LDC Sec. 10-198 STR Registration Number Not Present on all Advertising
LOCATION: 602 Estero Blvd.
STRAP NO: 24-46-23-W4-0060D.015A
CODE OFFICER: Eli Lee
REFERENCE NO: CE19-0415, Citations 1116, 1124, 1456, 1464, 1468, and 1125

Officer Stout noted the property owner was in compliance. He stated that he issued warnings, but they did not register with the Town promptly. Town Attorney Herin, Jr. submitted paperwork confirming that the property was advertised and occupied as a short-term rental at the time citations were issued.

The Town requested that fines be paid plus \$75.00 in administrative costs.

Magistrate Roche found that a violation did exist and she ordered the respondent to pay a fine of \$120.00 with administrative fees waived.

Property Owner: DEFEO WILLIAM G TR FOR WILLIAM G DEFEO TRUST
SUBJECT: LDC Sec. 10-198 Unregistered Short-Term Rental
LOCATION: 100/102 Bay Mar Dr.
STRAP NO: 29-46-24-W2-00155.1010
CODE OFFICER: Eli Lee
REFERENCE NO: CE19-0410, Citations 1457 and 1465

Officer Stout issued warning notices and citations after it was discovered the property was not registered.

Patricia Parks appeared with her father and noted they were in compliance. Town Attorney Herin, Jr. stated that there was a gap between the time the warnings were sent and when they applied for the registration number

The Town requested that fines be paid plus \$75.00 in administrative costs.

Magistrate Roche found that a violation did exist and she ordered the respondent to pay a fine of \$500.00 with \$75.00 in administrative fees.

Property Owner: DEFEO WILLIAM G TR FOR WILLIAM G DEFEO TRUST
SUBJECT: LDC Sec. 10-198 STR Registration Number Not Present on all Advertising
LOCATION: 100/102 Bay Mar Dr.
STRAP NO: 29-46-24-W2-00155.1010
CODE OFFICER: Eli Lee
REFERENCE NO: CE19-0420, Citations 1458 and 1466

Officer Stout issued warning notices and citations after it was discovered the registration number was not present on advertising.

The Town requested that fines be paid plus \$75.00 in administrative costs.

Magistrate Roche found that a violation did exist and she ordered the respondent to pay a fine of \$40.00 with administrative fees waived.

Property Owner: DRISKILL DEAN B + EILEEN
SUBJECT: LDC Sec. 10-198 Unregistered Short-Term Rental
LOCATION: 463 Washington Ct.
STRAP NO: 29-46-24-W1-0110C.0110
CODE OFFICER: Eli Lee
REFERENCE NO: CE19-0422, Citations 1180, 1188, 1194, 1197, 1200, 1121, 1453, and 1461

Officer Stout issued warning notices and citations after it was discovered the property was not registered. The property was currently in compliance. The Town requested that fines be paid plus \$75.00 in administrative costs.

Deena Kirkhill, Sales Director for Turnkey Vacation Rentals, noted that she started working with the owner in May of 2018 and she explained how that particular property fell through the cracks due to timing of the new ordinance and new ownership. She stated that as soon as they discovered the notices on the property, they submitted an application and were now compliant.

Magistrate Roche found that a violation did exist and she ordered the respondent to pay a fine of \$250.00 for each citation plus \$75.00 in administrative fees.

Property Owner: DRISKILL DEAN B + EILEEN
SUBJECT: LDC Sec. 10-198 STR Registration Number Not Present on all Advertising
LOCATION: 463 Washington Ct.
STRAP NO: 29-46-24-W1-0110C.0110
CODE OFFICER: Eli Lee
REFERENCE NO: CE19-0423, Citations 1181, 1189, 1195, 1196, 1113, 1122, 1454, and 1462

Officer Stout issued warning notices and citations after it was discovered the property was not registered. The property was currently in compliance.

Magistrate Roche found that a violation did exist and she ordered the respondent to pay a fine of \$20.00 for each citation with administrative fees waived.

Property Owner: CHRISTIANSON RODNEY G + HEIDI
SUBJECT: LDC Sec. 10-198 Unregistered Short-Term Rental
LOCATION: 6040 Estero Blvd.
STRAP NO: 33-46-24-W3-00600.0050
CODE OFFICER: Eli Lee
REFERENCE NO: CE19-0490, Citations 1176, 1184, and 1190

Town Attorney Herin, Jr. stated that the property owners were in compliance but were not when the warning letters and citations were issued. The Town requested that fines be paid plus \$75.00 in administrative fees.

Magistrate Roche found that a violation did exist and she ordered the respondent to pay a fine of \$250.00 for each citation plus \$75.00 in administrative fees.

Property Owner: CHRISTIANSON RODNEY G + HEIDI
SUBJECT: LDC Sec. 10-198 STR Registration Number Not Present on all Advertising
LOCATION: 6040 Estero Blvd.
STRAP NO: 33-46-24-W3-00600.0050
CODE OFFICER: Eli Lee
REFERENCE NO: CE19-0491, Citations 1177, 1185, and 1191

Town Attorney Herin, Jr. stated that the property owners were in compliance but were not when the warning letters and citations were issued. The Town requested that fines be paid plus \$75.00 in administrative fees.

Magistrate Roche found that a violation did exist and she ordered the respondent to pay a fine of \$20.00 for each citation with administrative fees waived.

Property Owner: KUCERA PAVEL
SUBJECT: LDC Sec. 34-2391 Weekly Rental Restrictions-Daily Rentals
LOCATION: 235/237 Nature View Ct.
STRAP NO: 19-46-24-W3-01700.0160
CODE OFFICER: Eli Lee
REFERENCE NO: CE19-0521

Officer Stout issued a notice of violation on July 24, 2019 with 30 days for compliance. Upon inspection, they were not in compliance. The notice of hearing was sent certified mail and posted. Photos were provided. Officer Stout did not have contact with the property owner.

Sondra Romano interpreted for Mr. Kucera. Ms. Romano noted that Mr. Kucera blocked off a week for himself, not for rentals. Town Attorney Herin, Jr. stated that multiple cars appeared at the property on different days, which indicated the property was being rented daily. Ms. Romano indicated that contractors also worked on the property. Magistrate Roche stated that the pictures were taken during the week of August 29, 2019. Mr. Pavel was not aware of daily rentals at his property.

The Town requested that after 15 days, only weekly permits will be issued; otherwise, a fine of \$250.00 per day plus \$75.00 in administrative fees will be imposed.

Magistrate Roche found that a violation did exist and she ordered the respondent to pay \$75.00 in administrative fees. If the respondent did not come into compliance within 15 days, a fine of \$250.00 per day will be imposed.

Property Owner: DANZI REAL ESTATE VENTURES LLC ✓
SUBJECT: LDC Sec. 6-111, Adopting FBC 105.1 Work without Permit-Remodel
LOCATION: 6151 Estero Blvd.
STRAP NO: 33-46-24-W3-03400.0050
CODE OFFICER: Eli Lee
REFERENCE NO: CE19-0041

Officer Stout stated that he posted the warnings and the notice of violation was issued to the owner on March 4, 2019. An application was submitted but no permit had been issued. Town Attorney Herin, Jr. stated the application was under review. The property was inspected and a notice of hearing issued to the owner.

Chanel Grigsby, representative from Island Breeze Condominium Association, noted that Ms. Danzi ignored requests for documentation from the condo association. Ms. Grigsby noted that they discovered the extensive remodel from an advertisement on the website. She stated that they were considering litigation against the owner. She commented that the owner had refused access and will not respond to the condo association.

The Town requested a fine and administrative fee.

Magistrate Roche found that a violation did exist and ordered the owner to pay \$250.00 and come into compliance within five days; otherwise, a fine of \$250.00 per day will be imposed. Administrative fees of \$75.00 were imposed.

Property Owner: JOHNSON, KEVIN & NANCY ✓
SUBJECT: LDC Sec. 26-71 Dock Setback Encroachment
LOCATION: 126/128 Tropical Shores Way
STRAP NO: 19-46-24-W300451.0440
CODE OFFICER: Eli Lee
REFERENCE NO: CE19-0077

Town Attorney Herin, Jr. stated that the notice of violation and notice of hearing were provided to the owner and posted on the property. A permit was issued for the dock, but staff determined the dock did not conform to regulations. Magistrate Roche questioned whether the dock was built per plans submitted. The Town did not know the details, but the dock was inspected and finalized.

Kayley Tuck, representative from Henderson Franklin, questioned where the setback violation was and what it violated. She noted the dock had been there since 1975 and predated incorporation. She commented that the footprint had not expanded during revisions in 2013 and she provided copies of the permits to the Magistrate.

Ms. Tuck provided documentation from the Town in 2018 stating that the boathouse was a legal and non-conforming structure. The attorneys in the case determined that section of the code did not give the Town the ability to force owners to remove boathouses.

Magistrate Roche continued the case to next month so the Town could obtain further information. Ms. Tuck noted that the property was a two-family dwelling.

no

Property Owner: RODRIGUEZ WILFREDO
SUBJECT: LDC Sec. 6-111, Adopting FBC 105.1 Work w/out Permit – Fill in Front Yard
LOCATION: 215 Nature View Ct.
STRAP NO: 19-46-24-W3-01700.0170
CODE OFFICER: Eli Lee
REFERENCE NO: CE19-0156

Officer Stout stated that a notice of violation was issued and posted. A stop work order was issued. No permit had been issued or applied for. The property was still in violation. The Town entered the file into the record. The Town requested 15 days for compliance; otherwise, an appropriate fine will be imposed.

Wilfredo Rodriguez stated that he did not need a permit for adding sand to his yard. Town Attorney Herin, Jr. noted that whenever fill was added a permit had to be obtained per state law. Mr. Rodriguez replied that he did not have a void to fill, he added two inches of sand to the front of his property so his kids could play in the sand. Magistrate Roche did not consider it to be fill. The Town withdrew the case.

The following cases were closed, continued or withdrawn:

Signature:  _____

- End of document