

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

Thursday, August 20, 2020

Hearing Examiner - Special Magistrate: Myrnabelle Roche

Magistrate Roche swore in those providing testimony.
Town Attorney Herin, Jr. represented the Town.
Staff: Community Services Administrator Daphnie Saunders.

CASES TO BE HEARD:

Property Owner: KEY ESTERO SHOPS, LLC MS
SUBJECT: LDC Sec. 34-3203-Illegal Buildings, Uses and Lots Illegal Parking Lot
LOCATION: 1661 Estero Blvd.
STRAP NO: 19-46-24-W4-00402.0010
CODE OFFICER: Eli Lee
REFERENCE NO: CE19-0026

Town Attorney Herin, Jr. stated that the case was before the Magistrate for imposition of lien due to non-compliance. The hearing was on January 30, 2020, and the respondent was ordered to comply on or before March 1, 2020. The property was in non-compliance for 173 days at \$200/per day plus a \$75.00 administrative fee for a total of \$34,475.00. He requested an order for a lien. Officer Lee testified that the property was not in compliance as of today and he provided photos that accurately reflected the condition of the property.

Attorney Robert Burandt questioned Officer Lee regarding the details of the violation. He testified that the respondent had not obtained a use permit according to the system. Attorney Burandt requested a continuance. Magistrate Roche denied his request for a continuance.

Magistrate Roche found that the respondent had not complied with her order and fines accrued in the amount of \$34,475.00 would be recorded as a lien against the property. She stated that the fine of \$200/per day would continue to accrue.

Violator: KOCHHEISER, AARON MS
SUBJECT: Overtime Meter
CODE SECTION: Sec. 28-51 (A)
LOCATION: Old San Carlos Meter 45
BASE OFFICER: Harry Lee
REFERENCE NO: 70951123

Officer Lee reported that while patrolling on May 25, 2020, he noticed an overtime meter and issued a citation. He provided photos of the violation. The Town requested a fine of \$35.00 with an administrative fee of \$175.00. The respondent was not in attendance.

Magistrate Roche found that a violation existed and ordered the respondent to pay a fine of \$35.00 and an administrative fee of \$75.00.

Violator: DORBAD, DEBRA
SUBJECT: Parked in Two Spaces
CODE SECTION: Sec.28-20 (2)N
LOCATION: Mango St.
BASE OFFICER: Mark Pergoli
REFERENCE NO: 73605350

MS

Officer Lee stood in for Officer Pergoli. He stated that Officer Pergoli issued the citation and provided photos. Notice was sent to the owner of the vehicle. The Town requested a fine of \$50.00 with \$175.00 in administrative fees.

Ms. Dorbad, resident with a handicapped sticker, stated that the handicapped spot was not available, so she parked between two old hash marks in red. She provided photos showing that people had parked in that spot before. She stated that the hash marks had been repainted in the last week to delineate parking. The handicapped placard was not visible in two photos.

Magistrate Roche found that a violation did exist and she ordered the respondent to pay a \$25.00 fine.

Violator: CRITSER, STAPLES
SUBJECT: Prohibited by Sign
CODE SECTION: Sec.28-20 (2)H
LOCATION: Connecticut St.
BASE OFFICER: Mark Pergoli
REFERENCE NO: 73604366

MS

Officer Lee stood in for Officer Pergoli. He indicated that Officer Pergoli noticed a vehicle parked in the right-of-way in front of a sign prohibiting parking on March 11, 2020. He issued a citation. The respondent was not in attendance. The Town requested a \$75.00 fine with \$175.00 in administrative fees. Notice of citation and hearing was provided to the respondent.

Magistrate Roche found that a violation existed and ordered the respondent to pay a fine of \$75.00 and an administrative fee of \$75.00.

Violator: STAGE, KIRKLAND
SUBJECT: Not a Legal Space
CODE SECTION: Sec.28-20 (2)R
LOCATION: Donora Blvd.
BASE OFFICER: Jim Blackwood
REFERENCE NO: 70607132

MS

Officer Blackwood reported that while he was patrolling, he noticed a vehicle parked on the edge of the road by the Fire Department. He provided photos that accurately reflected the violation. The respondent was not in attendance. The Town requested a fine of \$50.00 plus an administrative fee of \$75.00.

Magistrate Roche found that a violation did exist and she ordered the respondent to pay a fine of \$50.00 plus \$75.00 in administrative fees.

Property Owner: ESJ VI, LLC 
SUBJECT: LDC Article 1, Chapter 14 Damage and Destruction of Dune Vegetation
LOCATION: 5890/5894 Estero Blvd.
STRAP NO: 33-46-24-W2-0030C.0080
CODE OFFICER: Chadd Chustz
REFERENCE NO: CE20-0386

Environmental Project Manager and Code Officer Chustz observed damage to vegetation across a dune on May 27, 2020. Before and after photos were displayed on the screen and accurately reflected the violation. He stated that heavy machinery excavated sand and pushed it into the dune without a permit. He told the sister of the property owner that the activity was not allowed. Notices of violation and hearing were provided to the respondent, posted to the property, were in the file and entered in the record.

Attorney Robert Burandt stated that the property owner hired a landscaper to pull weeds on the path. When she noticed what the landscaper was doing, she fired him. Attorney Burandt indicated that the landscaper was responsible for the damage. He mentioned an affidavit from the Town Manager with an understanding that the case would be dismissed against her and would move forward with the landscaper.

Officer Chustz noted that a restoration plan had not been submitted to the Town.

Magistrate Roche stated that the homeowner was ultimately responsible. She provided a 60-day extension with no fines accruing. She ordered the property owner to return with a restoration plan. Attorney Burandt stated that the respondent was cited under the wrong section and the case should be dismissed. He noted there was no evidence that the damage was irreversible. Magistrate Roche stated that the motion to dismiss was denied based on Article 1.

Magistrate Roche found that a violation existed and continued to exist. She ordered the property owner to come into compliance within 60 days; otherwise, a fine of \$5,000.00 per day will be imposed and it shall continue to accrue at the rate of \$250.00 per day until the violation was corrected.

Violator: DODD FIELD SERVICES INC. 
SUBJECT: LDC Article I of Chapter 14 and Code of Ordinances Article II of Chapter 18 Dune Vegetation Destruction
LOCATION: 5890/5894 Estero Blvd.
STRAP NO: 33-46-24-W2-0030C.0080
CODE OFFICER: Chadd Chustz
REFERENCE NO: CE20-0523

Officer Chustz stated that there was damage to the adjacent beach access caused by the heavy equipment. He explained the difference in citations between the landscaper and the property owner in the last case. He provided photos of the damaged area. The notices of violation and hearing were provided to the respondent and were in the file.

The respondent was not in attendance.

The Town requested a fine of \$500.00.

Magistrate Roche found that the violation existed and continued to exist. She ordered the respondent to pay a one-time fine of \$5,000.00 and assessed costs of \$500.00 to repair the Town's property plus \$75.00 in administrative fees. She ordered the respondent to pay fines within 30 days.

Property Owner: BUS & MARTY FAMILY, LLC *MS*
SUBJECT: LDC Sec. 34-2391- Weekly Rental Restrictions Rentals for Less Than (1)
One Week
LOCATION: 235/237 Nature View Ct.
STRAP NO: 19-46-24-W3-01700.0160
CODE OFFICER: Kristin Schumacher
REFERENCE NO: CE20-0394

Attorney Jorge Montero represented the property owner for all four cases.

Code Enforcement and Short-term Rental Coordinator Kristin Schumacher noticed that the property rented for less than a week per rental calendars and photographs of different cars in the driveway. She stated that they were zoned for a minimum of seven days at a time. She displayed calendars on the screen. She indicated that the neighbors complained and sent emails, including pictures, which were in the file. She noted that notices of violation and hearing were sent to the property owner. She did not have contact with the property owner regarding this location. Officer Schumacher pointed out they were still in violation.

Attorney Montero spoke partially out of range of the microphone. He stated that Officer Schumacher presented evidence based on a 3rd party calendar and photos of vehicles in the driveway. Mr. Kuhlman, Manager, testified out of range of the microphone. He commented that he did not run the site, but he uploaded the seven-day minimum weekly calendar to the site. He noted that some of the blocked-out days were reserved for repairs on the property or family members but were not rented to guests. He stated that family members were booked to visit in September.

Town Attorney Herin, Jr. confirmed that Mr. Kuhlman uploaded the minimum seven-day stay calendar after the Town issued a notice. He questioned Mr. Kuhlman regarding different calendars. Town Attorney Herin, Jr. questioned the existence of permits for work done on the property. Mr. Kuhlman replied that Pinch a Penny and his contractor would have pulled the permits. He did not have permits in his possession. Mr. Kuhlman explained the reason why his brother listed the property for less than seven days on the calendar.

Officer Schumacher testified that the Town ran license plates to determine owners of the vehicles.

Attorney Montero questioned how they determined whether the owners of the cars were renters, family members, or workers. He stated that the vehicle in question was not a renter.

Magistrate Roche found that a violation did exist and she ordered a one-time fine of \$200.00 payable within 30 days. She ordered the property owner to come into compliance within 30 days.

Property Owner: BUS & MARTY FAMILY, LLC
SUBJECT: LDC Sec. 34-2393- Code of Conduct for Short-Term Rentals Noise
Disturbances-Loud Yelling, Loud Music During Quiet Hours
LOCATION: 235/237 Nature View Ct.
STRAP NO: 19-46-24-W3-01700.0160
CODE OFFICER: Kristin Schumacher
REFERENCE NO: CE20-0541

Officer Schumacher reported that on July 27, 2020, she received emails regarding a loud party at 11:30 p.m., so she issued a citation for \$5,000.00. Town Attorney Herin, Jr. questioned whether she could verify a visit to the property by the Sheriff's Office or Town staff. Officer Schumacher's response was inaudible. Ms. Dwyer filed a complaint. The case was withdrawn.

Property Owner: BUS & MARTY FAMILY LLC
SUBJECT: LDC Sec. 34-2391- Weekly Rental Restrictions Rentals for Less Than (1)
One Week
LOCATION: 245 Delmar Ave.
STRAP NO: 19-46-24-W4-0100F.0180
CODE OFFICER: Kristin Schumacher
REFERENCE NO: CE20-0378

Officer Schumacher stated that she received a complaint that the respondent rented less than one week. She issued a warning on May 29, 2020, and received another complaint on June 9, 2020, so she issued a notice of violation and hearing, which were in the file. She explained the rules to Kay Coleman and there have not been rentals since and was in compliance. The Town requested a finding of fact and an assessment of fines for the time they were not in compliance.

Attorney Montero and Mr. Kuhlman spoke out of range of the microphone.

Officer Schumacher submitted an email from Kay Kuhlman dated May 22, 2020. Attorney Montero pointed out that the correspondence was before the warning was issued on May 29, 2020. She described a photo of a car with a Georgia license plate. Mr. Kuhlman testified that the vehicle was used by Jen, who lived in Bowling Green. He understood that the neighbors asked her how long she was staying at the property.

Magistrate Roche found that the violation did exist, but she did not impose fines or fees.

Dr. Wayne Edson, neighbor, testified that three doctors stayed there from Miami while the Town was on lockdown. He stated that they stayed for three days. Another person from GA stayed at the property. He indicated that people had a big party on May 21, 2020, until 3:00 a.m. and he called the Sheriff. All the cars were gone the next morning, but they came back. He called the Sheriff again, but nothing was done.

Magistrate gave the respondent 30 days to purge the calendar.

Attorney Montero offered the owner's phone number to Dr. Edson.

Property Owner: BUS & MARTY FAMILY LLC
SUBJECT: LDC Sec. 34-2393-Code of Conduct Loud Party During Quiet Hours
LOCATION: 245 Delmar Ave.

STRAP NO: 19-46-24-W4-0100F.0180 *W8*
CODE OFFICER: Kristin Schumacher
REFERENCE NO: CE20-0376, Citation 0993

Officer Schumacher received several complaints regarding the property on the 20th. She verified that the neighbors called the Sheriff's Office and Officer Sears provided a report included in the packet. A citation was issued. The notice of violation and hearing was provided to the respondent. The Town requested a \$5,000.00 fine plus \$75.00 in administrative costs.

Linda Edson, neighbor, stated that cars were parked everywhere. She described the conversation she had with the man who hosted the party. She remarked that the man told her that Kay said it was ok to party. She indicated that there was trash everywhere the next day. She described how the party kept her family awake. She commented that the 24-hour number to call was based in San Francisco.

Attorney Montero verified that a police report was generated concerning the incident. He questioned Officer Schumacher whether it was the Sheriff's responsibility to enforce the ordinances. Officer Schumacher replied out of range of the microphone. Attorney Montero displayed a document to Town Attorney Herin, Jr. regarding the noise ordinance code. The conversation was out of the range of the microphone. Town Attorney Herin, Jr. discussed a specific section of code that was not in the ordinance. He requested a five-minute recess.

Town Attorney Herin, Jr. discussed LDC Sec. 34-2393 and noted it had been updated. Attorney Montero discussed Section 60 and enforcement by the Lee County Sheriff's Dept. He confirmed that no decibel test was performed. Mr. Kuhlman stated that they kicked the offending party out of their rental after complaints. He said that he was installing cameras and would add a decibel meter to monitor the noise level.

Magistrate Roche found that a violation did exist and she imposed a one-time fine of \$250.00 plus \$75.00 in administrative fees to be paid within 30 days.

Property Owner: GILL NICHOLAS J & GILL JENNIFER S + SCHEIFLA ALBERT JR
SUBJECT: LDC Sec. 34-2391- Weekly Rental Restrictions Multiple Weekly Rentals
in a One Month Period
LOCATION: 110 Hercules Dr.
STRAP NO: 29-46-24-W3-0060A.0050 *W8*
CODE OFFICER: Kristin Schumacher
REFERENCE NO: CE20-0093

The respondent phoned in.

Officer Schumacher indicated she received a complaint in February that the respondent rented weekly rentals in a monthly zone. She found that they were in violation and she provided pictures of vehicles from the neighbors. She described different sets of vehicles during the months. She provided reviews and rental calendars to support her case. She issued citations and noted she did not have contact with the property owner. The Town requested \$5,000.00 per citation plus \$75.00 in administrative fees.

A female neighbor stated that she told the new owners that they could only rent monthly. The owner replied that they would use the property for their family and friends. The neighbor noted that they started renting weekly and there were issues with all the cars. She discussed trash issues

and swimming at night. She indicated that the owner told the Fire Department that they would no longer rent the property as of today.

Mr. Gill, owner, stated that he thought they were in a weekly zone because his property was shown as a weekly rental on the Town's website. He acknowledged a conversation with the neighbor, but he relied on information from the Town. He stated that the map was since removed from the website. Magistrate Roche did not find the map persuasive. Mr. Gill commented that they never received a warning or phone call from the Town. He questioned why the complaint in February was never shared with them. The person in the unit in June was the property manager when he received the citation. He promised to comply with all regulations.

Town Attorney Herin, Jr. provided Mr. Gill's rental agreement that checked the monthly rental box. The Town requested a finding of fact and a \$5,000.00 fine.

Magistrate Roche found that violations did exist and assessed a \$250.00 fine for the June violation. She assessed a \$500.00 fine for each of the three violations after July 6, 2020. She imposed \$75.00 for administrative costs to be paid within 30 days. Magistrate Roche gave the respondent 30 days to purge the calendar.

Property Owner: SCHMID, JESSE & HANNON, JODI
SUBJECT: LDC Sec. 14-3(a), (4), & (14) Dune Destruction
LOCATION: 49/51 Pompano St. WS
STRAP NO: 30-46-24-W2-0020B.0230
CODE OFFICER: Chadd Chustz
REFERENCE NO: CE20-0294

An Attorney for Mr. Schmid requested a continuance. He provided pictures of the dune and noted it looked like it had been repaired. Town Attorney Herin, Jr. stated the damage to vegetation had been ongoing for a long time. He remarked that a Town employee observed someone spraying the vegetation.

Officer Chustz received a complaint on April 27, 2020, regarding destruction of dune vegetation and the use of heavy equipment on the dune. He documented the damage and discussed the issues with the property owner. He provided photos that accurately reflected the violation on the property. He stated that he told the property owner that he had to submit a dune restoration plan and Mr. Schmid indicated that he would hire an engineer. No permit had been authorized. Officer Chustz last inspected the property on August 7 or 8, 2020. He noted that Mr. Schmid did replace the vegetation, but there was no restoration plan submitted. He agreed that no further damage was done to the property and confirmed that sea oats had been planted.

The Attorney discussed allegations of a dump and noted that there was dead vegetation on the property. Mr. Schmid admitted that dead vegetation was on his property and was removed on April 27, 2020. He indicated that he spent \$20,000.00 to replace the sea oats based on permission from Officer Chustz. He described thorny bushes throughout the dune. He noted that he installed irrigation to keep the shoots alive. Mr. Schmid commented that the company that planted the sea oats was to submit a restoration plan, but they had not done so yet.

Town Attorney Herin, Jr. read the citation and criteria in exhibit 2.

The Attorney questioned the fine since the dune had been restored and was not irreparably damaged.

Magistrate Roche found that a violation did exist and imposed a fine of \$1,000.00. She ordered the respondent to come into compliance within 30 days; otherwise, a fine of \$250.00 per day would be imposed.

Property Owner: WHITE SAND PROPERTIES OF FORT MYERS BEACH
SUBJECT: LDC Sec. 14-3(a)(3) Removal of Dune Vegetation
LOCATION: 1550 I St.
STRAP NO: 19-46-24-W4-0070C.0100
CODE OFFICER: Chadd Chustz
REFERENCE NO: CE20-0491

Town Attorney Herin, Jr. stated that the underlying issues were the same as the previous case. He requested an identical stipulation. Mr. Schmid's Attorney agreed. Magistrate Roche ordered that CE20-0491 shall be identical to CE20-0294.

Property Owner: SCHLEESE, JOACHIM E. TR FOR JOACHIM E. SCHLEESE TRUST
SUBJECT: Ordinance 20-04 Sea Turtle Conservation Sea Turtle Lighting
LOCATION: 5400 Estero Blvd.
STRAP NO: 33-46-24-W1.00206.0390
CODE OFFICER: Chadd Chustz
REFERENCE NO: CE20-0504

Officer Chustz testified that he observed interior lights emanating from the property near a turtle nest. He received photos from Turtle Time. He informed the property owner that disorientation occurred in the area. He explained the photos and indicated what action was needed to correct the situation.

Amy Lowry managed the property and received permission to represent the owner. They shared flyers in the rentals and the contract regarding sea turtle rules and regulations. Ms. Lowry stated that the nest hatched on July 22nd, not the 23rd and she had proof that the house was unoccupied on the 22nd. She questioned how the owner of the home could be charged with a disorientation when the home was not occupied. Ms. Lowry stated that an adjacent property had pool lights since removed, that led to disorientation.

Magistrate Roche found that a violation existed; however, it did not rise to the level of irreversible harm because there was evidence that the light was not on when the nest hatched. She imposed a one-time fine of \$250.00 and ordered the respondent to address the lighting within 10 days; otherwise, a daily fine of \$250/per day would be imposed. She ordered \$75.00 in administrative fees.

Property Owner: TAR STEPHEN & GABRIELE
SUBJECT: LDC Sec. 6-111, Adopting FBC 105.1 Work Without Permit-
Canopy/Boathouse
LOCATION: 21521 Madera Rd.
STRAP NO: 28-46-24-W4-00500.0020
CODE OFFICER: Steve Wick
REFERENCE NO: 20190604

The respondent was not in attendance, but witnesses were.

Officer Wick stated that he found unpermitted boat canopies on the dock. He provided photos that accurately reflected the condition of the property. He noted the respondent was aware of the violation per email. He commented that nothing had been submitted to the Town. The Town requested that the respondent remove one boat canopy and obtain a permit for the other one. He also requested a fine of \$150/per day.

John and Leslie Munger, neighbors, commented out of range of the microphone. Mr. Munger noted the canopy was installed since March of (inaudible).

Magistrate Roche found that a violation did exist and continued to exist. She imposed a one-time fine of \$250.00 and ordered the respondent to come into compliance within 30 days; otherwise, a fine of \$250/per day will be imposed until the violation was corrected. She assessed \$75.00 in administrative costs.

Property Owner: TAR, STEPHEN & GABRIELE
SUBJECT: LDC Sec. 26-71-Docks and Boat Ramps Setback Encroachment
LOCATION: 21521 Madera Rd.
STRAP NO: 28-46-24-W4-00500.0020
CODE OFFICER: Steve Wick
REFERENCE NO: 20190815

W

Officer Wick reported that the dock was off by five or six feet from the submitted plan. He provided before and after photos that showed the dock was built beyond the setback. He stated that the respondent knew the dock was constructed illegally and would have to be moved. The respondent had not submitted an application for a new permit. Town Attorney Herin, Jr. stated that what was built did not follow the original plan submitted to the Town.

The Town requested the same remedy as the previous case.

Magistrate Roche found that a violation did exist and continued to exist. She imposed a one-time fine of \$250.00 and ordered the respondent to come into compliance within 30 days; otherwise, a fine of \$250/per day will be imposed until the violation was corrected. She assessed \$75.00 in administrative costs.

Property Owner: OCEANIC BLUE RETREATS, LLC
SUBJECT: LDC Sec. 34-2391- Weekly Rental Restrictions Repeat- Multiple Weekly Rentals in a One Month Period- Upper
LOCATION: 215 Flamingo St.
STRAP NO: 34-46-24-W4-00701.0060
CODE OFFICER: Kristin Schumacher
REFERENCE NO: CE20-0239

W

Officer Schumacher received a complaint in February and issued a notice of violation and hearing on March 27, 2020. She noted it was a repeat violation and a lien was issued on the property. She described ads and three reviews for the unit that indicated daily rentals occurred in a monthly zone. She stated that rentals had not occurred since the violation.

Attorney Yassir Lakhilfi represented the respondent. Officer Schumacher stated that they were allowed to rent to single families for a minimum of one week during a one-month period. Attorney Yassir confirmed that one review was for one unit and two reviews were from another unit. Officer Schumacher described the review process. Attorney Yassir questioned how they analyzed a month-one period. He provided documentation concerning reservations. The property manager explained the reviews and matched them up with the reservations. She explained that they made reservations in 30-day increments.

Town Attorney Herin, Jr. provided documentation of previous violations. He repeatedly questioned the respondent regarding why she did not give the Town her 30-day calculation. She stated that she rented for a 30-day period, whether it started at the beginning of the month or the middle of the month.

Magistrate Roche found that a violation existed and it was a repeat violation. She imposed a fine of \$500.00 and assessed a \$75.00 administrative fee to be paid within 30 days.

Property Owner: OCEANIC BLUE RETREATS, LLC
SUBJECT: LDC Sec. 34-2391- Weekly Rental Restrictions Rentals for Less Than One (1) Week
LOCATION: 61 Flamingo St.
STRAP NO: 33-46-24-W3-00600.0170
CODE OFFICER: Kristin Schumacher
REFERENCE NO: CE20-0085

NS

Officer Schumacher reported that she received a complaint in February that people were renting for less than one week in a weekly zone with seven-day minimum rentals and she sent a warning. She noted there were three units in the building and provided a calendar showing rentals for less than one week starting in July. She submitted photos of cars in the driveway and described how she determined that people rented for less than a week based on the different vehicles. She stated that she did not have contact with the property owner.

Attorney Yassir questioned whether any of the cars belonged to non-renters. Officer Schumacher noted that a cleaning person drove one of the vehicles.

Attorney Yassir discussed the marketing strategy relative to different properties the company managed. The respondent provided documentation that the property was rented for a minimum of seven days.

Town Attorney Herin, Jr. referred to dates on one of the calendars in the packet and questioned whether her company posted certain information on the calendar. She noted that they blocked off dates when people inquired about visiting their property.

Attorney Yassir argued against the \$5,000.00 fine.

Magistrate Roche found that a violation did not exist and ruled in favor of the respondent.

Property Owner: BAYVIEW LIFE INC.
SUBJECT: LDC Sec. 34-2391- Weekly Rental Restrictions Rentals for Less Than (1) One Week
LOCATION: 250/252 Nature View Ct.
STRAP NO: 20-46-24-W4-01700.0030
CODE OFFICER: Kristin Schumacher

NS

REFERENCE NO: CE20-0393

Officer Schumacher stated that the respondent rented the units for less than seven days in a weekly zone. She submitted calendars from a website to prove her allegations for all four units. Neighbors sent pictures to back up their complaints. She contacted the neighbors and the property manager. The Town requested a fine of \$250.00, 30 days to come into compliance and a \$75.00 administrative fee.

Property Manager Rachele Kennedy stated that they did not receive a warning. She noted that Officer Schumacher emailed her that they would not request a fine, but they wanted a record of the violation against the property.

Magistrate Roche found that a violation did exist, but she did not impose any fines or administrative fees.

Property Owner: ESTERO SILVER SANDS, LLC
SUBJECT: LDC Sec. 6-111, Adopting FBC 105.1 Work without Permit-Seal and Re-striping Parking Lot
LOCATION: 1207 Estero Blvd. 
STRAP NO: 19-46-24-W4-0150D.0050
CODE OFFICER: Bill Stout
REFERENCE NO: CE20-0300

Officer Stout responded to a complaint, took pictures and issued a work without a permit citation. He stated that the respondent did not apply for a permit. The respondent remarked that she did apply for a permit. Officer Stout contacted the respondent and told her that she needed to apply for a permit. The last time he checked, an application had not been submitted. The respondent stated that she striped the lot exactly as it had been.

The Town requested that the respondent apply for a permit and have it inspected within 30 days. He requested a fine of \$100.00 if there was no compliance after.

Magistrate Roche found that a violation did exist; however, she did not order any fines or fees, but she did impose a \$100.00 fine in the event the property owner did not come into compliance within 30 days.

Violator: WB WILLIAMSON BROS. INC.
SUBJECT: LDC Sec. 14-54 Plastic Shavings in Canal
LOCATION: 292 Delmar Ave.
STRAP NO: 19-46-24-W3-04500.00CE 
CODE OFFICER: Chadd Chustz
REFERENCE NO: CE20-0296

Officer Chustz stated that he received a complaint on April 22, 2020, concerning plastic shavings in the water from a construction site. He provided photos of the property and the shavings in the water. He reported that applicable permits had been issued. He observed shavings drifting from the construction site and collected them for evidence. He noted the shavings were white plastic and the dock at the construction site was white. Officer Chustz reported that the construction company apologized and indicated it would not happen again. The Town requested a fine of

\$5,000.00 due to irreparable harm. He stated the shavings drifted downstream and endangered wildlife.

Patricia DaTalaba, Permitting Manager, noted that they never had a violation in the area and she reviewed the company's history. She indicated that they made changes, so it would not happen again. She requested leniency. She noted that she was not aware that they needed a barrier for a 90-foot dock. She explained that they also had a screen and a shop vac on the premises to suck up the shavings.

The Town also requested a \$75.00 administrative fee.

Manager DaTalaba described contacting Manager Saunders on May 5, 2020, the day after she received the notice of violation, to reach a compliance agreement and avoid a \$5,000.00 fine. Manager Saunders was unable to discuss it due to a family situation. Manager Saunders indicated she would contact Manager DaTalaba when she returned to work. As of June 22, 2020, Manager DaTalaba had not heard from Manager Saunders, so she sent an email inquiring about the situation. After that communication, she received a notice of hearing.

Magistrate Roche found that a violation did exist and irreparable harm was done to the environment, water and wildlife due to the plastic shavings. She ordered the respondent to pay a fine of \$4,500.00 plus \$75.00 in administrative fees.

Property Owner: POHLMANN, HERBERT C., JR
SUBJECT: LDC Sec. 6-111, Adopting FBC 105.1 Work Without Permit-Interior Remodel
LOCATION: 16 Pepita St.
STRAP NO: 33-46-24-W2-0090B.0110
CODE OFFICER: Eli Lee
REFERENCE NO: CE20-0436

WJ

Officer Lee received a complaint on June 18, 2020, concerning a remodel without a permit. He inspected the property and noticed woodwork around the property. Workers allowed him entrance to the property and he observed ripped out drywall and new sliding glass doors. The workers indicated the kitchen would be remodeled. He spoke to the supervisor and informed him that he needed a permit. Officer Lee issued a stop-work order and nothing had been done to the property since and no permit applications were on file. He provided pictures that accurately reflected the condition of the property. He noted that the supervisor informed him that they were working on the property while the homeowner was out of the country. The notices of violation and hearing were provided to the respondent and were in the file.

Mr. Rodriguez represented the construction company and stated that they just received new plans and would submit a permit application tomorrow or soon after.

The Town requested a complete application within one week; otherwise, a fine of \$50/per day if they were out of compliance.

Magistrate Roche found that a violation existed and continued to exist. She imposed a one-time fine of \$250.00 and ordered the respondent to come into compliance within 30 days; otherwise, a fine of \$250/day will be imposed. She ordered that the work had to pass inspections within six months and assessed \$75.00 in administrative fees.

Property Owner: RODRIGUEZ, WILFREDO

SUBJECT: LDC Sec. 34-2391- Weekly Rental Restrictions Daily Rentals- Violation of Order
LOCATION: 215 Nature View Ct.
STRAP NO: 19-46-24-W3-01700.0170
CODE OFFICER: Kristin Schumacher
REFERENCE NO: CE19-0520

W

Officer Schumacher responded to a complaint of rentals for less than seven days. She noted they were a repeat offender. She researched an online calendar and provided photos of vehicles in the driveway for less than a week. She did not speak to the property owner and indicated there was one rental unit.

Mr. Rodriguez stated that there were two rental units in the building. He indicated that most of the block was rented and the three full-time homeowners on the block harassed renters. He reported that his relatives stayed in the units because of the pandemic and the neighbors used his driveway. He indicated that the calendar had been corrected. He spoke off microphone and said something about the Fire Marshal. He compared his calendar with Officer Schumacher's calendar.

Magistrate Roche questioned the lack of notice of violation. The Town argued that it was not needed with a repeat case, but they withdrew the case.

Property Owner: RODRIGUEZ, WILFREDO
SUBJECT: Declaration of Emergency Regulations #6 Amending Declaration of Emergency Regulations #4 Rentals Prohibited
LOCATION: 215 Nature View Ct.
STRAP NO: 19-46-24-W3-01700.0170
CODE OFFICER: Kristin Schumacher
REFERENCE NO: CE20-0330

W

Officer Schumacher responded to a complaint that the property had a renter when rentals were prohibited due to the pandemic. Officer Todd Sears confirmed that the family was staying at the property. A couple of days later, it was determined that a renter was staying at the property. The violation was issued on May 11, 2020.

Mr. Rodriguez provided receipts and photos of his truck in the driveway to prove that he was there on May 11, 2020. The Town provided a statement from the renter who stated they stayed there. Mr. Rodriguez responded that it was a friend of his cousin.

The Town requested a \$5,000.00 fine due to the Emergency Order.

Magistrate Roche found that a violation did exist and she imposed a one-time fine of \$5,000.00 based on the Emergency Order. She waived administrative fees.

Property Owner: RODRIGUEZ, WILFREDO
SUBJECT: LDC Sec. 34-2391- Weekly Rental Restrictions Multiple Weekly Rentals in a One Month Period- Violation of Order
LOCATION: 5765 Lauder St.
STRAP NO: 33-46-24-W2-005M0.0020
CODE OFFICER: Kristin Schumacher
REFERENCE NO: CE19-0110

W

The Town received a continuance.

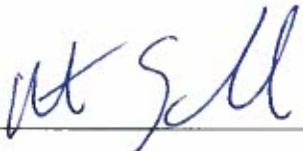
Property Owner: RODRIGUEZ, WILFREDO
SUBJECT: Declaration of Emergency Regulations #6 Amending Declaration of
Emergency Regulations #4 Rentals Prohibited
LOCATION: 5765 Lauder St.
STRAP NO: 33-46-24-W2-005M0.0020
CODE OFFICER: Kristin Schumacher
REFERENCE NO: CE20-0332, Citation 0547

Officer Schumacher discovered that a tenant rented the unit on May 11, 2020, while quarantining from the pandemic.

Mr. Rodriguez spoke out of range of the microphone. He stated that the renter was a Fort Myers resident who worked as a nurse in New York. She quarantined herself at the rental unit while waiting for the results of her tests. She originally booked the unit for two weeks but left after her test results came back negative in one week.

Magistrate Roche found that a violation did exist and she ordered the respondent to pay a one-time fine of \$500.00 on the basis that it was related to a health care service provider. She waived the administrative fees.

Magistrate Roche adjourned the hearing and the remaining cases will be heard at the September hearing.

Signature:  _____

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